

# FOODS, DRUGS, OILS, AND COMPOUNDS

## CHAPTER 161

### SENATE BILL NO. 2258

(Senators Klein, Armstrong, Casper)  
(Representatives Dockter, Keiser, Vigesaa)

AN ACT to create and enact a new section to chapter 19-02.1 of the North Dakota Century Code, relating to pharmacy claim fees and pharmacy rights; to provide a penalty; and to provide for application.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1.** A new section to chapter 19-02.1 of the North Dakota Century Code is created and enacted as follows:

**Pharmacy claim fees and pharmacy rights - Pharmacy benefits managers - Penalty.**

1. As used in this section:
  - a. "Pharmacy benefits manager" has the same meaning as in section 19-03.6-01.
  - b. "Plan sponsor" has the same meaning as in section 19-03.6-01.
  - c. "Third-party payer" has the same meaning as in section 19-03.6-01.
2. A pharmacy benefits manager or third-party payer may not directly or indirectly charge or hold a pharmacy responsible for a fee related to a claim:
  - a. That is not apparent at the time of claim processing;
  - b. That is not reported on the remittance advice of an adjudicated claim; or
  - c. After the initial claim is adjudicated at the point of sale.
3. Pharmacy performance measures or pay for performance pharmacy networks shall utilize the electronic quality improvement platform for plans and pharmacies or other unbiased nationally recognized entity aiding in improving pharmacy performance measures.
  - a. A pharmacy benefits manager or third-party payer may not collect a fee from a pharmacy if the pharmacy's performance scores or metrics fall within the criteria identified by the electronic quality improvement platform for plans and pharmacies or other unbiased nationally recognized entity aiding in improving pharmacy performance measures.

- b. If a pharmacy benefits manager or third-party payer imposes a fee upon a pharmacy for scores or metrics or both scores and metrics that do not meet those established by the electronic quality improvement platform for plans and pharmacies or other nationally recognized entity aiding in improving pharmacy performance measures, a pharmacy benefits manager or third-party payer is limited to applying the fee to the professional dispensing fee outlined in the pharmacy contract.
  - c. A pharmacy benefits manager or third-party payer may not impose a fee relating to performance metrics on the cost of goods sold by a pharmacy.
- 4. A pharmacy benefits manager or third-party payer may not charge a patient a copayment that exceeds the cost of the medication. If a patient pays a copayment, the dispensing provider or pharmacy shall retain the adjudicated cost and the pharmacy benefits manager or third-party payer may not redact the adjudicated cost.
- 5. A pharmacy benefits manager or third-party payer may not prohibit a pharmacist or pharmacy from participating in a class action lawsuit. A pharmacy or pharmacist may disclose to the plan sponsor or to the patient information regarding the adjudicated reimbursement paid to the pharmacy which is compliant under the federal Health Insurance Portability and Accountability Act of 1996 [Pub. L. 104-191; 110 Stat. 1936; 29 U.S.C. 1181 et seq.].
- 6. A pharmacist or pharmacy that belongs to a pharmacy service administration organization may receive a copy of a contract the pharmacy service administration organization entered with a pharmacy benefits manager or third-party payer on the pharmacy's or pharmacist's behalf.
- 7. A pharmacy or pharmacist may provide relevant information to a patient if the patient is acquiring prescription drugs. This information may include the cost and clinical efficacy of a more affordable alternative drug if one is available. Gag orders of such a nature placed on a pharmacy or pharmacist are prohibited.
- 8. A pharmacy or pharmacist may mail or deliver drugs to a patient as an ancillary service of a pharmacy.
- 9. A pharmacy benefits manager or third-party payer may not prohibit a pharmacist or pharmacy from charging a shipping and handling fee to a patient requesting a prescription be mailed or delivered.
- 10. Upon request, a pharmacy benefits manager or third-party payer shall provide a pharmacy or pharmacist with the processor control number, bank identification number, and group number for each pharmacy network established or administered by a pharmacy benefits manager to enable the pharmacy to make an informed contracting decision.
- 11. A pharmacy benefits manager or third-party payer may not require pharmacy accreditation standards or recertification requirements inconsistent with, more stringent than, or in addition to federal and state requirements for licensure as a pharmacy in this state.

12. A pharmacy benefits manager or other third-party payer that violates this section is guilty of a class B misdemeanor per violation occurrence.

**SECTION 2. APPLICATION.** This Act applies to contracts and agreements in effect on and after the effective date of this Act.

Approved April 5, 2017

Filed April 5, 2017

## CHAPTER 162

### SENATE BILL NO. 2301

(Senators Anderson, Dever, J. Lee)  
(Representatives Kasper, Seibel, Weisz)

AN ACT to create and enact a new section to chapter 19-02.1 of the North Dakota Century Code, relating to specialty pharmacy services; to provide a penalty; and to provide for application.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1.** A new section to chapter 19-02.1 of the North Dakota Century Code is created and enacted as follows:

#### Specialty pharmacy services and patient access to pharmaceuticals - Pharmacy benefits managers - Penalty.

1. As used in this section:

- a. "Pharmacy benefits manager" has the same meaning as in section 19-03.6-01.
  - b. "Plan sponsor" has the same meaning as in section 19-03.6-01.
  - c. "Specialty drug" means a prescription drug that:
    - (1) Is not available for order or purchase by a retail community pharmacy and long-term care pharmacy, regardless of whether the drug is meant to be self-administered; and
    - (2) Requires special storage and has distribution or inventory limitations not available at a retail community pharmacy or long-term care pharmacy.
  - d. "Third-party payer" has the same meaning as in section 19-03.6-01.
2. If requested by a plan sponsor contracted payer, a pharmacy benefits manager or third-party payer that has an ownership interest, either directly or through an affiliate or subsidiary, in a pharmacy shall disclose to the plan sponsor contracted payer any difference between the amount paid to a pharmacy and the amount charged to the plan sponsor contracted payer.
  3. A pharmacy benefits manager or a pharmacy benefits manager's affiliates or subsidiaries may not own or have an ownership interest in a patient assistance program and a mail order specialty pharmacy, unless the pharmacy benefits manager, affiliate, or subsidiary agrees to not participate in a transaction that benefits the pharmacy benefits manager, affiliate, or subsidiary instead of another person owed a fiduciary duty.
  4. A pharmacy benefits manager or third-party payer may not require pharmacy accreditation standards or recertification requirements to participate in a

network which are inconsistent with, more stringent than, or in addition to the federal and state requirements for licensure as a pharmacy in this state.

5. A licensed pharmacy or pharmacist may dispense any and all drugs allowed under that license.
6. A pharmacy benefits manager or other third-party payer that violates this section is guilty of a class B misdemeanor for each violation occurrence.

**SECTION 2. APPLICATION.** This Act applies to contracts and agreements in effect on and after the effective date of this Act.

Approved April 5, 2017

Filed April 5, 2017

## CHAPTER 163

### SENATE BILL NO. 2096

(Judiciary Committee)  
(At the request of the State Board of Pharmacy)

AN ACT to amend and reenact sections 19-03.1-05, 19-03.1-07, 19-03.1-11, and 19-03.1-13 of the North Dakota Century Code, relating to the scheduling of controlled substances; and to declare an emergency.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Section 19-03.1-05 of the North Dakota Century Code is amended and reenacted as follows:

**19-03.1-05. Schedule I.**

1. The controlled substances listed in this section are included in schedule I.
2. Schedule I consists of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.
3. Opiates. Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of those isomers, esters, ethers, and salts is possible within the specific chemical designation:
  - a. Acetyl-alpha-methylfentanyl (also known as N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-N-phenylacetamide).
  - b. Acetyl-fentanyl (also known as N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide).
  - c. Acetylmethadol.
  - d. Allylprodine.
  - e. Alphacetylmethadol.
  - f. Alphameprodine.
  - g. Alphamethadol.
  - h. Alpha-methylfentanyl (also known as N-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl]-propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilide)piperidine).
  - i. Alpha-methylthiofentanyl (also known as N-[1-methyl-2-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide).
  - j. Benzethidine.

- k-g. Betacetylmethadol.
- l. Beta-hydroxyfentanyl (also known as N-[1-(2-hydroxy-2-phenethyl)-4-piperidinyl]-N-phenylpropanamide).
- m. Beta-hydroxy-3-methylfentanyl (also known as N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl]-N-phenylpropanamide).
- n-h. Betameprodine.
- e-i. Betamethadol.
- p-j. Betaprodine.
- q-k. Clonitazene.
- r-l. Dextromoramide.
- s-m. Diampropamide.
- t-n. Diethylthiambutene.
- u-o. Difenoxin.
- v-p. Dimenoxadol.
- w-q. Dimepheptanol.
- x-r. Dimethylthiambutene.
- y-s. Dioxaphetyl butyrate.
- z-t. Dipipanone.
- aa-u. Ethylmethylthiambutene.
- bb-v. Etonitazene.
- ee-w. Etoxeridine.
- dd-x. Furethidine.
- ee-y. Hydroxypethidine.
- ff-z. Ketobemidone.
- gg-aa. Levomoramide.
- hh-bb. Levophenacylmorphan.
- ii. 3-Methylfentanyl (also known as N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide).
- jj. 3-Methylthiofentanyl (also known as N-[3-methyl-1-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide).

- kk-cc. Morpheridine.
- ll-dd. MPPP (also known as 1-methyl-4-phenyl-4-propionoxypiperidine).
- mm-ee. Noracymethadol.
- nn-ff. Norlevorphanol.
- ee-gg. Normethadone.
- pp-hh. Norpipanone.
- qq. Para-fluorofentanyl (also known as N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidinyl] propanamide).
- rr-ii. PEPAP (1-(2-Phenylethyl)-4-Phenyl-4-acetoxypiperidine).
- ss-jj. Phenadoxone.
- tt-kk. Phenampromide.
- uu-ll. Phenomorphan.
- vv-mm. Phenoperidine.
- ww-nn. Piritramide.
- xx-oo. Proheptazine.
- yy-pp. Properidine.
- zz-qq. Propiram.
- aaa-rr. Racemoramide.
- bbb. Thiofentanyl (also known as N-phenyl N-[1-(2-thienyl)ethyl-4-piperidinyl] propanamide).
- eee:ss. Tilidine.
- ddd-tt. Trimeperidine.
- uu. 3,4-dichloro-N-[2-(dimethylamino)cyclbhexyl]-N-methylbenzamide (also known as U-47700).
- vv. 1-cyclohexyl-4-(1,2-diphenylethyl)piperazine (also know as MT-45).
- ww. 3,4-dichloro-N-{{[1-(dimethylamino)cyclohexyl]methyl}benzamide (also known as AH-7921).
- xx. Fentanyl derivatives. Unless specifically excepted or unless listed in another schedule or are not FDA approved drugs, and are derived from N-(1-(2-Phenylethyl)-4-piperidinyl)-N-phenylpropanamide (Fentanyl) by any substitution on or replacement of the phenethyl group, any substitution on the piperidine ring, any substitution on or replacement of the propanamide

group, any substitution on the anilido phenyl group, or any combination of the above. Examples include:

- (1) N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-N-phenylacetamide (also known as Acetyl-alpha-methylfentanyl).
  - (2) N-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl]propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido)piperidine (also known as Alpha-methylfentanyl).
  - (3) N-[1-methyl-2-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide (also known as Alpha-methylthiofentanyl).
  - (4) N-[1-(2-hydroxy-2-phenethyl)-4-piperidinyl]-N-phenylpropanamide (also known as Beta-hydroxyfentanyl).
  - (5) N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl]-N-phenylpropanamide (also known as Beta-hydroxy-3-methylfentanyl).
  - (6) N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide (also known as 3-Methylfentanyl).
  - (7) N-[3-methyl-1-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide (also known as 3-Methylthiofentanyl).
  - (8) N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidinyl]propanamide (also known as Para-fluorofentanyl).
  - (9) N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]propanamide (also known as Thiofentanyl).
  - (10) N-(1-phenylethylpiperidin-4-yl)-N-phenylfuran-2-carboxamide (also known as Furanyl Fentanyl).
  - (11) N-(1-phenethylpiperidin-4-yl)-N-phenylbutyramide; N-(1-phenethylpiperidin-4-yl)-N-phenylbutanamide (also known as Butyryl Fentanyl).
  - (12) N-[1-[2-hydroxy-2-(thiophen-2-yl)ethyl]piperidin-4-yl]-N-phenylpropionamide; N-[1-[2-hydroxy-2-(2-thienyl)ethyl]-4-piperidinyl]-N-phenylpropanamide (also known as Beta-Hydroxythiofentanyl).
  - (13) N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide (also known as Acetyl Fentanyl).
  - (14) N-phenyl-N-[1-(2-phenylethyl)piperidin-4-yl]prop-2-enamide (also known as Acrylfentanyl).
  - (15) N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-pentanamide (also known as Valeryl Fentanyl).
4. Opium derivatives. Unless specifically excepted or unless listed in another schedule, any of the following opium derivatives, its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

- a. Acetorphine.
  - b. Acetyldihydrocodeine.
  - c. Benzylmorphine.
  - d. Codeine methylbromide.
  - e. Codeine-N-Oxide.
  - f. Cyprenorphine.
  - g. Desomorphine.
  - h. Dihydromorphine.
  - i. Drotebanol.
  - j. Etorphine (except hydrochloride salt).
  - k. Heroin.
  - l. Hydromorphenol.
  - m. Methyldesorphine.
  - n. Methyldihydromorphine.
  - o. Morphine methylbromide.
  - p. Morphine methylsulfonate.
  - q. Morphine-N-Oxide.
  - r. Myrophine.
  - s. Nicocodeine.
  - t. Nicomorphine.
  - u. Normorphine.
  - v. Pholcodine.
  - w. Thebacon.
5. Hallucinogenic substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any quantity of the following hallucinogenic substances, including their salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation (for purposes of this subsection only, the term "isomer" includes the optical, position, and geometric isomers):

- a. Alpha-ethyltryptamine, its optical isomers, salts, and salts of isomers (also known as etryptamine; a-ethyl-1H-indole-3-ethanamine; 3-(2-aminobutyl) indole).
  - b. Alpha-methyltryptamine.
  - c. 4-methoxyamphetamine (also known as 4-methoxy-a-methylphenethylamine; paramethoxyamphetamine; PMA).
  - d. N-hydroxy-3,4-methylenedioxymphetamine (also known as N-hydroxy-alpha-methyl-3,4(methylenedioxy)phenylamine, and N-hydroxy MDA).
  - e. Hashish.
  - f. Ibogaine (also known as 7-Ethyl-6, 6B, 7, 8, 9, 10, 12, 13-octahydro-2-methoxy-6, 9-methano-5 H-pyrido [1', 2':1,2] azepino (5,4-b) indole; Tabernanthe iboga).
  - g. Lysergic acid diethylamide.
  - h. Marijuana.
  - i. Parahexyl (also known as 3-Hexyl-1-hydroxy-7,8,9,10-tetrahydro- 6,6,9-trimethyl-6H-dibenzol[b,d]pyran; Synhexyl).
  - j. Peyote (all parts of the plant presently classified botanically as Lophophora williamsii Lemaire, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture, or preparation of such plant, its seeds, or its extracts).
  - k. N-ethyl-3-piperidyl benzilate.
  - l. N-methyl-3-piperidyl benzilate.
  - m. Psilocybin.
  - n. Tetrahydrocannabinols, meaning tetrahydrocannabinols naturally contained in a plant of the genus Cannabis (cannabis plant), as well as synthetic equivalents of the substances contained in the cannabis plant, or in the resinous extractives of such plant, including synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity to those substances contained in the plant, such as the following:
    - (1) Delta-1 cis or trans tetrahydrocannabinol, and their optical isomers. Other names: Delta-9-tetrahydrocannabinol.
    - (2) Delta-6 cis or trans tetrahydrocannabinol, and their optical isomers.
    - (3) Delta-3,4 cis or trans tetrahydrocannabinol, and its optical isomers.
- (Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered.)

o. Cannabinoids, synthetic. It includes the chemicals and chemical groups listed below, including their homologues, salts, isomers, and salts of isomers. The term "isomer" includes the optical, position, and geometric isomers.

(1) Indole carboxaldehydes. Any compound structurally derived from 1H-indole-3-carboxaldehyde or 1H-2-carboxaldehyde substituted in both of the following ways: at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, tetrahydropyranylmethyl, benzyl, or halo benzyl group; and, at the hydrogen of the carboxaldehyde by a phenyl, benzyl, naphthyl, adamantyl, cyclopropyl, or propionaldehyde group whether or not the compound is further modified to any extent in the following ways:

- (a) Substitution to the indole ring to any extent; or
- (b) Substitution to the phenyl, benzyl, naphthyl, adamantyl, cyclopropyl, or propionaldehyde group to any extent; or
- (c) A nitrogen heterocyclic analog of the indole ring; or
- (d) A nitrogen heterocyclic analog of the phenyl, benzyl, naphthyl, adamantyl, or cyclopropyl ring.

(e) Examples include:

- [1] 1-Pentyl-3-(1-naphthoyl)indole - Other names: JWH-018 and AM-678.
- [2] 1-Butyl-3-(1-naphthoyl)indole - Other names: JWH-073.
- [3] 1-Pentyl-3-(4-methoxy-1-naphthoyl)indole - Other names: JWH-081.
- [4] 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole - Other names: JWH-200.
- [5] 1-Propyl-2-methyl-3-(1-naphthoyl)indole - Other names: JWH-015.
- [6] 1-Hexyl-3-(1-naphthoyl)indole - Other names: JWH-019.
- [7] 1-Pentyl-3-(4-methyl-1-naphthoyl)indole - Other names: JWH-122.
- [8] 1-Pentyl-3-(4-ethyl-1-naphthoyl)indole - Other names: JWH-210.
- [9] 1-Pentyl-3-(4-chloro-1-naphthoyl)indole - Other names: JWH-398.
- [10] 1-(5-fluoropentyl)-3-(1-naphthoyl)indole - Other names: AM-2201.

- [11] 1-(2-cyclohexylethyl)-3-(2-methoxyphenylacetyl)indole - Other names: RCS-8.
- [12] 1-Pentyl-3-(2-methoxyphenylacetyl)indole - Other names: JWH-250.
- [13] 1-Pentyl-3-(2-methylphenylacetyl)indole - Other names: JWH-251.
- [14] 1-Pentyl-3-(2-chlorophenylacetyl)indole - Other names: JWH-203.
- [15] 1-Pentyl-3-(4-methoxybenzoyl)indole - Other names: RCS-4.
- [16] (1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole) - Other names: AM-694.
- [17] (4-Methoxyphenyl)-[2-methyl-1-(2-(4-morpholinyl)ethyl)indol-3-yl]methanone - Other names: WIN 48,098 and Pravadoline.
- [18] (1-Pentylindol-3-yl)-(2,2,3,3-tetramethylcyclopropyl)methanone -- Other names: UR-144.
- [19] (1-(5-fluoropentyl)indol-3-yl)-(2,2,3,3-tetramethylcyclopropyl)methanone - Other names: XLR-11.
- [20] (1-(2-morpholin-4-ylethyl)-1H-indol-3-yl)-(2,2,3,3-tetramethylcyclopropyl)methanone - Other names: A-796,260.
- [21] (1-(5-fluoropentyl)-1H-indazol-3-yl)(naphthalen-1-yl)methanone -- Other names: THJ-2201.
- [22] 1-naphthalenyl(1-pentyl-1H-indazol-3-yl)-methanone -- Other names: THJ-018.
- [23] (1-(5-fluoropentyl)-1H-benzo[d]imidazol-2-yl)(naphthalen-1-yl)methanone - Other names: FUBIMINA.
- [24] 1-[(N-methylpiperidin-2-yl)methyl]-3-(adamant-1-oyl) indole - Other names: AM-1248.
- [25] 1-Pentyl-3-(1-adamantoyl)indole - Other names: AB-001 and JWH-018 adamantly analog.
- (2) Indole carboxamides. Any compound structurally derived from 1H-indole-3-carboxamide or 1H-2-carboxamide substituted in both of the following ways: at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, tetrahydropyranylmethyl, benzyl, or halo benzyl group; and, at the nitrogen of the carboxamide by a phenyl, benzyl, naphthyl, adamantyl, cyclopropyl, or propionaldehyde group whether or not the compound is further modified to any extent in the following ways:

- (a) Substitution to the indole ring to any extent; or
- (b) Substitution to the phenyl, benzyl, naphthyl, adamantlyl, cyclopropyl, or propionaldehyde group to any extent; or
- (c) A nitrogen heterocyclic analog of the indole ring; or
- (d) A nitrogen heterocyclic analog of the phenyl, benzyl, naphthyl, adamantlyl, or cyclopropyl ring.
- (e) Examples include:
- [1] N-Adamantyl-1-pentyl-1H-indole-3-carboxamide - Other names: JWH-018 adamantyl carboxamide, APICA, SDB-001, and 2NE1.
- [2] N-Adamantyl-1-fluoropentylinole-3-carboxamide - Other names: STS-135.
- [3] N-Adamantyl-1-pentyl-1H-Indazole-3-carboxamide - Other names: AKB 48 and APINACA.
- [4] N-1-naphthalenyl-1-pentyl-1H-indole-3-carboxamide - Other names: NNEI and MN-24.
- [5] N-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indole-3-carboxamide - Other names: ADBICA.
- [6] (S)-N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide - Other names: AB-PINACA.
- [7] N-[(1S)-1-(aminocarbonyl)-2-methylpropyl]-1-[(4-fluorophenyl)methyl]-1H-indazole-3-carboxamide - Other names: AB-FUBINACA.
- [8] (S)-N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide - Other names: 5-Fluoro AB-PINACA.
- [9] N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide - Other names: ADB-PINACA.
- [10] N-[(1S)-1-(aminocarbonyl)-2-methylpropyl]-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide - Other names: AB-CHMINACA.
- [11] N-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide - Other names: ADB-FUBINACA.
- [12] N-((3s,5s,7s)-adamantan-1-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide - Other names: FUB-AKB48 and AKB48 N-(4-fluorobenzyl) analog.
- [13] 1-(5-fluoropentyl)-N-(quinolin-8-yl)-1H-indazole-3-carboxamide - Other names: 5-fluoro-THJ.

- [14] (S)-methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3-methylbutanoate - Other names: 5-fluoro AMB.
- [15] methyl (1-(4-fluorobenzyl)-1H-indazole-3-carbonyl)-L-valinate - Other names: FUB-AMB.
- [16] N-[1-(aminocarbonyl)-2,2-dimethylpropyl]-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide - Other names: MAB-CHMINACA and ADB-CHMINACA.
- [17] Methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate - Other names: 5F-ADB and 5F-MDMB-PINACA.
- [18] N-(adamantan-1-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide - Other names: 5F-APINACA and 5F-AKB48.
- [19] Methyl 2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)-3,3-dimethylbutanoate - Other names: MDMB-CHMICA and MMB-CHMINACA.
- [20] Methyl 2-(1-(4-fluorobenzyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate - Other names: MDMB-FUBINACA.

(3) Indole carboxylic acids. Any compound structurally derived from 1H-indole-3-carboxylic acid or 1H-2-carboxylic acid substituted in both of the following ways: at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, tetrahydropyranylmethyl, benzyl, or halo benzyl group; and, at the hydroxyl group of the carboxylic acid by a phenyl, benzyl, naphthyl, adamantyl, cyclopropyl, or propionaldehyde group whether or not the compound is further modified to any extent in the following ways:

- (a) Substitution to the indole ring to any extent; or
- (b) Substitution to the phenyl, benzyl, naphthyl, adamantyl, cyclopropyl, propionaldehyde group to any extent; or
- (c) A nitrogen heterocyclic analog of the indole ring; or
- (d) A nitrogen heterocyclic analog of the phenyl, benzyl, naphthyl, adamantyl, or cyclopropyl ring.
- (e) Examples include:

- [1] 1-(cyclohexylmethyl)-1H-indole-3-carboxylic acid 8-quinolinyl ester - Other names: BB-22 and QUCHIC.
- [2] naphthalen-1-yl 1-(4-fluorobenzyl)-1H-indole-3-carboxylate - Other names: FDU-PB-22.
- [3] 1-pentyl-1H-indole-3-carboxylic acid 8-quinolinyl ester - Other names: PB-22 and QUPIC.

[4] 1-(5-Fluoropentyl)-1H-indole-3-carboxylic acid 8-quinolinyl ester - Other names: 5-Fluoro PB-22 and 5F-PB-22.

[5] quinolin-8-yl-1-(4-fluorobenzyl)-1H-indole-3-carboxylate - Other names: FUB-PB-22.

[6] naphthalen-1-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate - Other names: NM2201.

(4) Naphthylmethylindoles. Any compound containing a 1H-indol-3-yl-(1-naphthyl)methane structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples include:

(a) 1-Pentyl-1H-indol-3-yl-(1-naphthyl)methane - Other names: JWH-175.

(b) 1-Pentyl-1H-indol-3-yl-(4-methyl-1-naphthyl)methane - Other names: JWH-184.

(5) Naphthylpyrroles. Any compound containing a 3-(1-naphthoyl)pyrrole structure with substitution at the nitrogen atom of the pyrrole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl group whether or not further substituted in the pyrrole ring to any extent, whether or not substituted in the naphthyl ring to any extent. Examples include: (5-(2-fluorophenyl)-1-pentylypyrrol-3-yl)-naphthalen-1-ylmethanone - Other names: JWH-307.

(6) Naphthylmethylindenenes. Any compound containing a naphthylideneindene structure with substitution at the 3-position of the indene ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl group whether or not further substituted in the indene ring to any extent, whether or not substituted in the naphthyl ring to any extent. Examples include: E-1-[1-(1-Naphthalenylmethylene)-1H-inden-3-yl]pentane - Other names: JWH-176.

(7) Cyclohexylphenols. Any compound containing a 2-(3-hydroxycyclohexyl)phenol structure with substitution at the 5-position of the phenolic ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl group whether or not substituted in the cyclohexyl ring to any extent. Examples include:

(a) 5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol - Other names: CP 47,497.

(b) 5-(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol -  
Other names: Cannabicyclohexanol and CP 47,497 C8  
homologue.

(c) 5-(1,1-dimethylheptyl)-2-[(1R,2R)-5-hydroxy-2-(3-hydroxypropyl)cyclohexyl]-phenol - Other names: CP 55,940.

(8) Others specifically named:

(a) (6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol - Other names: HU-210.

(b) (6aS,10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol - Other names: Dexanabinol and HU-211.

(c) 2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl)pyrrolo[1,2,3-de]-1,4-benzoxazin-6-yl]-1-naphthalenylmethanone - Other names: WIN 55,212-2.

(d) Naphthalen-1-yl-(4-pentyloxynaphthalen-1-yl)methanone - Other names: CB-13.

p. Substituted phenethylamines. This includes any compound, unless specifically excepted, specifically named in this schedule, or listed under a different schedule, structurally derived from phenylethan-2-amine by substitution on the phenyl ring in any of the following ways, that is to say, by substitution with a fused methylenedioxy ring, fused furan ring, or fused tetrahydrofuran ring; by substitution with two alkoxy groups; by substitution with one alkoxy and either one fused furan, tetrahydrofuran, or tetrahydropyran ring system; or by substitution with two fused ring systems from any combination of the furan, tetrahydrofuran, or tetrahydropyran ring systems.

(1) Whether or not the compound is further modified in any of the following ways, that is to say:

(a) By substitution of phenyl ring by any halo, hydroxyl, alkyl, trifluoromethyl, alkoxy, or alkylthio groups;

(b) By substitution at the 2-position by any alkyl groups; or

(c) By substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl, hydroxybenzyl, methylenedioxybenzyl, or methoxybenzyl groups.

(2) Examples include:

(a) 2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (also known as 2C-C or 2,5-Dimethoxy-4-chlorophenethylamine).

(b) 2-(2,5-Dimethoxy-4-methylphenyl)ethanamine (also known as 2C-D or 2,5-Dimethoxy-4-methylphenethylamine).

- (c) 2-(2,5-Dimethoxy-4-ethylphenyl)ethanamine (also known as 2C-E or 2,5-Dimethoxy-4-ethylphenethylamine).
- (d) 2-(2,5-Dimethoxyphenyl)ethanamine (also known as 2C-H or 2,5-Dimethoxyphenethylamine).
- (e) 2-(4-Iodo-2,5-dimethoxyphenyl)ethanamine (also known as 2C-I or 2,5-Dimethoxy-4-iodophenethylamine).
- (f) 2-(2,5-Dimethoxy-4-nitro-phenyl)ethanamine (also known as 2C-N or 2,5-Dimethoxy-4-nitrophenethylamine).
- (g) 2-(2,5-Dimethoxy-4-(n-propylphenyl)ethanamine (also known as 2C-P or 2,5-Dimethoxy-4-propylphenethylamine).
- (h) 2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine (also known as 2C-T-2 or 2,5-Dimethoxy-4-ethylthiophenethylamine).
- (i) 2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine (also known as 2C-T-4 or 2,5-Dimethoxy-4-isopropylthiophenethylamine).
- (j) 2-(4-bromo-2,5-dimethoxyphenyl)ethanamine (also known as 2C-B or 2,5-Dimethoxy-4-bromophenethylamine).
- (k) 2-(2,5-dimethoxy-4-(methylthio)phenyl)ethanamine (also known as 2C-T or 4-methylthio-2,5-dimethoxyphenethylamine).
- (l) 1-(2,5-dimethoxy-4-iodophenyl)-propan-2-amine (also known as DOI or 2,5-Dimethoxy-4-idoamphetamine).
- (m) 1-(4-Bromo-2,5-dimethoxyphenyl)-2-aminopropane (also known as DOB or 2,5-Dimethoxy-4-bromoamphetamine).
- (n) 1-(4-chloro-2,5-dimethoxy-phenyl)propan-2-amine (also known as DOC or 2,5-Dimethoxy-4-chloroamphetamine).
- (o) 2-(4-bromo-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine (also known as 2C-B-NBOMe; 2,5B-NBOMe or 2,5-Dimethoxy-4-bromo-N-(2-methoxybenzyl)phenethylamine).
- (p) 2-(4-iodo-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine (also known as 2C-I-NBOMe; 2,5I-NBOMe or 2,5-Dimethoxy-4-iodo-N-(2-methoxybenzyl)phenethylamine).
- (q) N-(2-Methoxybenzyl)-2-(3,4,5-trimethoxyphenyl)ethanamine (also known as mescaline-NBOMe or 3,4,5-trimethoxy-N-(2-methoxybenzyl)phenethylamine).
- (r) 2-(4-chloro-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine (also known as 2C-C-NBOMe; 2,5C-NBOMe or 2,5-Dimethoxy-4-chloro-N-(2-methoxybenzyl)phenethylamine).

- (s) 2-(7-Bromo-5-methoxy-2,3-dihydro-1-benzofuran-4-yl)ethanamine (also known as 2CB-5-hemiFLY).
  - (t) 2-(8-bromo-2,3,6,7-tetrahydrofuro[2,3-f][1]benzofuran-4-yl)ethanamine (also known as 2C-B-FLY).
  - (u) 2-(10-Bromo-2,3,4,7,8,9-hexahydropyrano[2,3-g]chromen-5-yl)ethanamine (also known as 2C-B-butterFLY).
  - (v) N-(2-Methoxybenzyl)-1-(8-bromo-2,3,6,7-tetrahydrobenzo[1,2-b:4,5-b']difuran-4-yl)-2-aminoethane (also known as 2C-B-FLY-NBOMe).
  - (w) 1-(4-Bromofuro[2,3-f][1]benzofuran-8-yl)propan-2-amine (also known as bromo-benzodifuranyl-isopropylamine or bromo-dragonFLY).
  - (x) N-(2-Hydroxybenzyl)-4-iodo-2,5-dimethoxyphenethylamine (also known as 2C-I-NBOH or 2,5I-NBOH).
  - (y) 5-(2-Aminopropyl)benzofuran (also known as 5-APB).
  - (z) 6-(2-Aminopropyl)benzofuran (also known as 6-APB).
  - (aa) 5-(2-Aminopropyl)-2,3-dihydrobenzofuran (also known as 5-APDB).
  - (bb) 6-(2-Aminopropyl)-2,3-dihydrobenzofuran (also known as 6-APDB).
  - (cc) 2,5-dimethoxy-amphetamine (also known as 2,5-dimethoxy-a-methylphenethylamine; 2,5-DMA).
  - (dd) 2,5-dimethoxy-4-ethylamphetamine (also known as DOET).
  - (ee) 2,5-dimethoxy-4-(n-propylthiophenethylamine (also known as 2C-T-7).
  - (ff) 5-methoxy-3,4-methylenedioxy-amphetamine.
  - (gg) 4-methyl-2,5-dimethoxy-amphetamine (also known as 4-methyl-2,5-dimethoxy-a-methylphenethylamine; DOM and STP).
  - (hh) 3,4-methylenedioxy amphetamine (also known as MDA).
  - (ii) 3,4-methylenedioxymethamphetamine (also known as MDMA).
  - (jj) 3,4-methylenedioxo-N-ethylamphetamine (also known as N-ethyl-alpha-methyl-3,4(methylenedioxy)phenethylamine, MDE, MDEA).
  - (kk) 3,4,5-trimethoxy amphetamine.
  - (ll) Mescaline (also known as 3,4,5-trimethoxyphenethylamine).
- q. Substituted tryptamines. This includes any compound, unless specifically excepted, specifically named in this schedule, or listed under a different schedule, structurally derived from 2-(1H-indol-3-yl)ethanamine (i.e.,

tryptamine) by mono- or di-substitution of the amine nitrogen with alkyl or alkenyl groups or by inclusion of the amino nitrogen atom in a cyclic structure whether or not the compound is further substituted at the alpha-position with an alkyl group or whether or not further substituted on the indole ring to any extent with any alkyl, alkoxy, halo, hydroxyl, or acetoxy groups. Examples include:

- (1) 5-methoxy-N,N-diallyltryptamine (also known as 5-MeO-DALT).
- (2) 4-acetoxy-N,N-dimethyltryptamine (also known as 4-AcO-DMT or O-Acetylpsilocin).
- (3) 4-hydroxy-N-methyl-N-ethyltryptamine (also known as 4-HO-MET).
- (4) 4-hydroxy-N,N-diisopropyltryptamine (also known as 4-HO-DIPT).
- (5) 5-methoxy-N-methyl-N-isopropyltryptamine (also known as 5-MeO-MiPT).
- (6) 5-methoxy-N,N-dimethyltryptamine (also known as 5-MeO-DMT).
- (7) Bufotenine (also known as 3-(Beta-Dimethyl-aminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; N, N-dimethylserotonin; 5-hydroxy-N,N-dimethyltryptamine; mappine).
- (8) 5-methoxy-N,N-diisopropyltryptamine (also known as 5-MeO-DiPT).
- (9) Diethyltryptamine (also known as N,N-Diethyltryptamine; DET).
- (10) Dimethyltryptamine (also known as DMT).
- (11) Psilocyn.
- r. 1-[3-(trifluoromethylphenyl)]piperazine (also known as TFMPP).
- s. 1-[4-(trifluoromethylphenyl)]piperazine.
- t. 6,7-dihydro-5H-indeno-(5,6-d)-1,3-dioxol-6-amine (also known as 5,6-Methylenedioxy-2-aminoindane or MDAI).
- u. 2-(Ethylamino)-2-(3-methoxyphenyl)cyclohexanone (also known as Methoxetamine or MXE).
- v. Ethylamine analog of phencyclidine (also known as N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE).
- w. Pyrrolidine analog of phencyclidine (also known as 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP).
- x. Thiophene analog of phencyclidine (also known as (1-[1-(2-thienyl)cyclohexyl] piperidine; 2-Thienylanalog of phencyclidine; TPCP, TCP).
- y. 1-[1-(2-thienyl)cyclohexyl]pyrrolidine (also known as TCPy).

- z. *Salvia divinorum*, salvinorin A, or any of the active ingredients of *salvia divinorum*.
6. Depressants. Unless specifically excepted or unless listed in another schedule, any material compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:
  - a. Flunitrazepam.
  - b. Gamma-hydroxybutyric acid.
  - c. Mecloqualone.
  - d. Methaqualone.
7. Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:
  - a. Aminorex (also known as 2-amino-5-phenyl-2-oxazoline, or 4,5-dihydro-5-phenyl-2-oxazolamine).
  - b. Cathinone.
  - c. Substituted cathinones. Any compound, material, mixture, preparation, or other product, unless listed in another schedule or an approved food and drug administration drug (e.g., bupropion, pyrovalerone), structurally derived from 2-aminopropan-1-one by substitution at the 1-position with either phenyl, naphthyl, or thiophene ring systems, whether or not the compound is further modified in any of the following ways:
    - (1) By substitution in the ring system to any extent with alkyl, alkylenedioxy, alkoxy, haloalkyl, hydroxyl, or halide substituents, whether or not further substituted in the ring system by one or more other univalent substituents;
    - (2) By substitution at the 3-position with an acyclic alkyl substituent;
    - (3) By substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl, or methoxybenzyl groups; or
    - (4) By inclusion of the 2-amino nitrogen atom in a cyclic structure.

Some trade or other names:

- (a) 3,4-Methylenedioxy-alpha-pyrrolidinopropiophenone (also known as MDPPP).
- (b) 3,4-Methylenedioxy-N-ethylcathinone (also known as Ethylone, MDEC, or bk-MDEA).

- (c) 3,4-Methylenedioxy-N-methylcathinone (also known as Methylone or bk-MDMA).
  - (d) 3,4-Methylenedioxypyrovalerone (also known as MDPV).
  - (e) 3,4-Dimethylmethcathinone (also known as 3,4-DMMC).
  - (f) 2-(methylamino)-1-phenylpentan-1-one (also known as Pentedrone).
  - (g) 2-Fluoromethcathinone (also known as 2-FMC).
  - (h) 3-Fluoromethcathinone (also known as 3-FMC).
  - (i) 4-Methylethcathinone (also known as 4-MEC and 4-methyl-N-ethylcathinone).
  - (j) 4-Fluoromethcathinone (also known as Flephedrone and 4-FMC).
  - (k) 4-Methoxy-alpha-pyrrolidinopropiophenone (also known as MOPPP).
  - (l) 4-Methoxymethcathinone (also known as Methedrone; bk-PMMA).
  - (m) 4'-Methyl-alpha-pyrrolidinobutiophenone (also known as MPBP).
  - (n) Alpha-methylamino-butyrophenone (also known as Buphedrone or MABP).
  - (o) Alpha-pyrrolidinobutiophenone (also known as alpha-PBP).
  - (p) Alpha-pyrrolidinopropiophenone (also known as alpha-PPP).
  - (q) Alpha-pyrrolidinopentiophenone (also known as Alpha-pyrrolidinovalerophenone or alpha-PVP).
  - (r) Beta-keto-N-methylbenzodioxolylbutanamine (also known as Butylone or bk-MBDB).
  - (s) Ethcathinone (also known as N-Ethylcathinone).
  - (t) 4-Methylmethcathinone (also known as Mephedrone or 4-MMC).
  - (u) Methcathinone.
  - (v) N,N-dimethylcathinone (also known as metamfepramone).
  - (w) Naphthylpyrovalerone (naphyrone).
  - (x) B-Keto-Methylbenzodioxolylpentanamine (also known as Pentyline).
  - (y) 4-Methyl-alpha-pyrrolidinopropiophenone (also known as 4-MePPP and MPPP).
- d. Fenethylline.

- e. Fluoroamphetamine.
- f. Fluoromethamphetamine.
- g. ( $\pm$ )cis-4-methylaminorex (also known as ( $\pm$ )cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine).
- h. N-Benzylpiperazine (also known as BZP, 1-benzylpiperazine).
- i. N-ethylamphetamine.
- j. N, N-dimethylamphetamine (also known as N,N-alpha-trimethylbenzeneethanamine; N,N-alpha-trimethylphenethylamine).

**SECTION 2. AMENDMENT.** Section 19-03.1-07 of the North Dakota Century Code is amended and reenacted as follows:

**19-03.1-07. Schedule II.**

- 1. The controlled substances listed in this section are included in schedule II.
- 2. Schedule II consists of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.
- 3. Substances, vegetable origin or chemical synthesis. Unless specifically excepted or unless listed in another schedule, any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:
  - a. Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, excluding apomorphine, dextrophan, nalbuphine, nalmefene, naloxone, and naltrexone and their respective salts, but including the following:
    - (1) Codeine.
    - (2) Dihydroetorphine.
    - (3) Ethylmorphine.
    - (4) Etorphine hydrochloride.
    - (5) Granulated opium.
    - (6) Hydrocodone.
    - (7) Hydromorphone.
    - (8) Metopon.
    - (9) Morphine.
    - (10) Opium extracts.

- (11) Opium fluid.
  - (12) Oripavine.
  - (13) Oxycodone.
  - (14) Oxymorphone.
  - (15) Powder opium.
  - (16) Raw opium.
  - (17) Thebaine.
  - (18) Tincture of opium.
- b. Any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in subdivision a, but not including the isoquinoline alkaloids of opium.
- c. Opium poppy and poppy straw.
- d. Coca leaves and any salt, compound, derivative, or preparation of coca leaves, including cocaine and ecgonine and their salts, isomers, derivatives, and salts of isomers and derivatives, and any salt, compound, derivative, or preparation thereof that is chemically equivalent or identical with any of these substances, except that the nondosage substances must include decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine.
- e. Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid, or powder form which contains the phenanthrine alkaloids of the opium poppy).
4. Opiates. Unless specifically excepted or unless in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers whenever the existence of those isomers, esters, ethers, and salts is possible within the specific chemical designation, dextrophan and levopropoxyphene excepted:
- a. Alfentanil.
  - b. Alphaprodine.
  - c. Anileridine.
  - d. Bezitramide.
  - e. Bulk dextropropoxyphene (nondosage forms).
  - f. Carfentanil.
  - g. Dihydrocodeine.
  - h. Diphenoxylate.

- i. Fentanyl.
  - j. Isomethadone.
  - k. Levo-alphaacetylmethadol (LAAM).
  - l. Levomethorphan.
  - m. Levorphanol.
  - n. Metazocine.
  - o. Methadone.
  - p. Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane.
  - q. Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenylpropane-carboxylic acid.
  - r. Pethidine (also known as meperidine).
  - s. Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine.
  - t. Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate.
  - u. Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid.
  - v. Phenazocine.
  - w. Priminodine.
  - x. Racemethorphan.
  - y. Racemorphan.
  - z. Remifentanil.
  - aa. Sufentanil.
  - bb. Tapentadol.
  - cc. Thiafentanil.
5. Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:
- a. Amphetamine, its salts, optical isomers, and salts of its optical isomers.
  - b. Lisdexamfetamine, its salts, isomers, and salts of isomers.
  - c. Methamphetamine, its salts, isomers, and salts of isomers.
  - d. Phenmetrazine and its salts.

- e. Methylphenidate.
6. Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:
  - a. Amobarbital.
  - b. Glutethimide.
  - c. Pentobarbital.
  - d. Phencyclidine.
  - e. Secobarbital.
7. Hallucinogenic substances. Nabilone [another name for nabilone ( $\pm$ )-trans-3-(1, 1-dimethylheptyl)-6, 6a, 7, 8, 10, 10a-hexahydro-1-hydroxy-6, 6-dimethyl-9Hdibenzo [b, d] pyran-9-one].
8. Immediate precursors. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substances:
  - a. Immediate precursor to amphetamine and methamphetamine: Phenylacetone. Some trade or other names: phenyl-2-propanone; P2P, benzyl methyl ketone; methyl benzyl ketone.
  - b. Immediate precursors to phencyclidine (PCP):
    - (1) 1-phenylcyclohexylamine.
    - (2) 1-piperidinocyclohexanecarbonitrile (PCC).
  - c. Immediate precursors to fentanyl: 4-anilino-N-phenethyl-4-piperidine (ANPP).

**SECTION 3. AMENDMENT.** Section 19-03.1-11 of the North Dakota Century Code is amended and reenacted as follows:

**19-03.1-11. Schedule IV.**

1. The controlled substances listed in this section are included in schedule IV.
2. Schedule IV consists of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.
3. Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

- a. Not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.
- b. Dextropropoxyphene (also known as alpha-(+)-4-dimethylamino- 1,2-diphenyl-3-methyl-2-propionoxybutane).
- c. 2-[(dimethylamino)methyl]-1-(3-methoxyphenyl)cyclohexanol, its salts, optical and geometric isomers and salts of these isomers including Tramadol.
4. Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any quantity of the following substances, including their salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:
  - a. Alprazolam.
  - b. Alfaxalone.
  - c. Barbital.
  - d. Bromazepam.
  - e. Camazepam.
  - f. Carisoprodol.
  - g. Chloral betaine.
  - h. Chloral hydrate.
  - i. Chlordiazepoxide.
  - j. Clobazam.
  - k. Clonazepam.
  - l. Clorazepate.
  - m. Clotiazepam.
  - n. Cloxazolam.
  - o. Delorazepam.
  - p. Diazepam.
  - q. Dichloralphenazone.
  - r. Estazolam.
  - s. Ethchlorvynol.
  - t. Ethinamate.

- u. Ethyl loflazepate.
- v. Fludiazepam.
- w. Flunitrazepam.
- x. Flurazepam.
- x-y. Fospropofol.
- y-z. Halazepam.
- z-aa. Haloxazolam.
- aa-bb. Indiplon.
- bb-cc. Ketazolam.
- ee-dd. Loprazolam.
- dd-ee. Lorazepam.
- ee-ff. Lorcaserin.
- ff-gg. Lormetazepam.
- gg-hh. Mebutamate.
- hh-ii. Medazepam.
- ii-jj. Meprobamate.
- jj-kk. Methohexital.
- kk-ll. Methylphenobarbital (also known as mephobarbital).
- ll-mm. Midazolam.
- mm-nn. Nimetazepam.
- nn-oo. Nitrazepam.
- oo-pp. Nordiazepam.
- pp-qq. Oxazepam.
- qq-rr. Oxazolam.
- rr-ss. Paraldehyde.
- ss-tt. Petrichloral.
- tt uu. Phenobarbital.
- uu-vv. Pinazepam.

ww.ww. Propofol.

ww.xx. Prazepam.

xx.yy. Quazepam.

yy.zz. Suvorexant.

zzaaa. Temazepam.

aaa.bbb. Tetrazepam.

bbb.ccc. Triazolam.

eeeddd. Zaleplon.

ddd.eee. Zolpidem.

eee.fff. Zopiclone.

5. Fenfluramine. Any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers, whenever the existence of such salts, isomers, and salts of isomers is possible: Fenfluramine.
6. Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:
  - a. Cathine.
  - b. Diethylpropion.
  - c. Fencamfamin.
  - d. Fenproporex.
  - e. Mazindol.
  - f. Mefenorex.
  - g. Modafinil.
  - h. Pemoline (including organometallic complexes and chelates thereof).
  - i. Phentermine.
  - j. Pipradrol.
  - k. Sibutramine.
  - l. SPA ((-)-1-dimethylamino-1, 2-diphenylethane).

7. Other substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of:
  - a. Pentazocine, including its salts.
  - b. Butorphanol, including its optical isomers.
  - c. Eluxadoline (5-[[(2S)-2-amino-3-[4-aminocarbonyl]-2,6-dimethylphenyl]-1-oxopropyl][(1S)-1-(4-phenyl-1H-imidazol-2-yl)ethyl]amino)methyl]-2-methoxybenzoic acid (including its optical isomers) and its salts, isomers, and salts of isomers.
  - d. Epidiolex or its successor name as determined by the United States food and drug administration.
8. The board may except by rule any compound, mixture, or preparation containing any depressant substance listed in subsection 2 from the application of all or any part of this chapter if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a depressant effect on the central nervous system.

**SECTION 4. AMENDMENT.** Section 19-03.1-13 of the North Dakota Century Code is amended and reenacted as follows:

**19-03.1-13. Schedule V.**

1. The controlled substances listed in this section are included in schedule V.
2. Schedule V consists of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.
3. Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs and their salts.
4. Narcotic drugs containing non-narcotic active medicinal ingredients. Any compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below, which includes one or more non-narcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal qualities other than those possessed by narcotic drugs alone.
  - a. Not more than 200 milligrams of codeine per 100 milliliters or per 100 grams.
  - b. Not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams.
  - c. Not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams.

- d. Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit.
  - e. Not more than 100 milligrams of opium per 100 milliliters or per 100 grams.
  - f. Not more than 0.5 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.
5. Depressants. Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible:
- a. Brivaracetam ((2S)-2-[(4R)-2-oxo-4-propylpyrrolidin-1-yl]butanamide) (also referred to as BRV; UCB-34714; Briviact) (including its salts).
  - b. Ezogabine N-[2-amino-4-(4-fluorobenzylamino)-phenyl]-carbamic acid ethyl ester.
  - b-c. Lacosamide [(R)-2-acetoamido-N-benzyl-3-methoxy-propionamide].
  - e-d. Pregabalin [(S)-3-(aminomethyl)-5-methylhexanoic acid].
6. Stimulants. Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation containing any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, isomers, and salts of isomers: Pyrovalerone.

**SECTION 5. EMERGENCY.** This Act is declared to be an emergency measure.

Approved March 13, 2017

Filed March 13, 2017

## CHAPTER 164

### HOUSE BILL NO. 1269

(Representatives Olson, M. Nelson)

AN ACT to create and enact a new subsection to section 12.1-32-09.1 of the North Dakota Century Code, relating to sentencing for aggravated assault; to amend and reenact subdivision k of subsection 3 of section 12.1-23-05, subsection 5 of section 12.1-32-01, subdivision b of subsection 1 of section 12.1-32-02.1, sections 19-03.1-22.3 and 19-03.1-23, subsection 2 of section 19-03.1-23.1, section 19-03.1-23.4, paragraph 3 of subdivision e of subsection 1 of section 19-03.1-36, subdivision e of subsection 5 of section 19-03.1-36, subsection 1 of section 19-03.1-45, and subsection 29 of section 40-05-02 of the North Dakota Century Code, relating to grading of theft offenses, illegal possession of prescription capsules, pills, or tablets, possession of marijuana, ingesting a controlled substance, and misdemeanor marijuana convictions being excluded as prior offenses for purposes of determining mandatory terms of imprisonment; and to provide a penalty.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**<sup>71</sup> SECTION 1. AMENDMENT.** Subdivision k of subsection 3 of section 12.1-23-05 of the North Dakota Century Code is amended and reenacted as follows:

- k. The property stolen is a prescription drug as defined in section 43-15.3-01, except when the quantity stolen is five or fewer capsules, pills, or tablets.

**SECTION 2. AMENDMENT.** Subsection 5 of section 12.1-32-01 of the North Dakota Century Code is amended and reenacted as follows:

5. Class A misdemeanor, for which a maximum penalty of ~~one year's imprisonment for three hundred sixty days~~, a fine of three thousand dollars, or both, may be imposed.

**SECTION 3. AMENDMENT.** Subdivision b of subsection 1 of section 12.1-32-02.1 of the North Dakota Century Code is amended and reenacted as follows:

- b. The offender possesses or has within immediate reach and control a dangerous weapon, explosive, destructive device, or firearm while in the course of committing any felony offense under subsection 1, 23, or ~~78~~ of section 19-03.1-23.

**SECTION 4.** A new subsection to section 12.1-32-09.1 of the North Dakota Century Code is created and enacted as follows:

An offender who is convicted of a class C felony in violation of section 12.1-17-02, or an attempt to commit the offense, and who has received a sentence of imprisonment or a sentence of imprisonment upon revocation of probation before August 1, 2015, is eligible to have the offender's sentence

<sup>71</sup> Section 12.1-23-05 was also amended by section 5 of House Bill No. 1041, chapter 108.

considered by the parole board.

<sup>72</sup> **SECTION 5. AMENDMENT.** Section 19-03.1-22.3 of the North Dakota Century Code is amended and reenacted as follows:

**19-03.1-22.3. Ingesting a controlled substance - Venue for violation - Penalty.**

A person who intentionally ingests, inhales, injects, or otherwise takes into the body a controlled substance, unless the substance was obtained directly from a practitioner or pursuant to a valid prescription or order of a practitioner while acting in the course of the practitioner's professional practice, is guilty of a class B misdemeanor if the controlled substance is marijuana. Otherwise, the offense is a class A misdemeanor. The venue for a violation of this section exists in either the jurisdiction in which the controlled substance was ingested, inhaled, injected, or otherwise taken into the body or the jurisdiction in which the controlled substance was detected in the body of the accused.

<sup>73</sup> **SECTION 6. AMENDMENT.** Section 19-03.1-23 of the North Dakota Century Code is amended and reenacted as follows:

**19-03.1-23. Prohibited acts A - Mandatory terms of imprisonment and fines - Unclassified offenses - Penalties.**

1. Except as authorized by this chapter, it is unlawful for any person to willfully, as defined in section 12.1-02-02, manufacture, deliver, or possess with intent to manufacture or deliver, a controlled substance, or to deliver, distribute, or dispense a controlled substance by means of the internet, but any person who violates section 12-46-24 or 12-47-21 may not be prosecuted under this subsection. Any person who violates this subsection with respect to:
  - a. A controlled substance classified in schedule I or II which is a narcotic drug, or methamphetamine, is guilty of a class AB felony and must be sentenced:
    - (1) For a second offense, to imprisonment for at least fivethree years.
    - (2) For a third or subsequent offense, to imprisonment for twentyten years.
  - b. Any other controlled substance classified in schedule I, II, or III, or a controlled substance analog is guilty of a class B felony. Except for a person who manufactures, delivers, or possesses with the intent to manufacture or deliver marijuana, any person found guilty under this subdivision must be sentenced:
    - (1) For a second offense, to imprisonment for at least threetwo years.
    - (2) For a third or subsequent offense, to imprisonment for tenfive years.
  - c. A substance classified in schedule IV, is guilty of a class C felony and must be sentenced:

<sup>72</sup> Section 19-03.1-22.3 was also amended by section 10 of House Bill No. 1041, chapter 108.

<sup>73</sup> Section 19-03.1-23 was also amended by section 12 of House Bill No. 1041, chapter 108, section 1 of House Bill No. 1341, chapter 165, and section 2 of House Bill No. 1341, chapter 165.

- (1) For a second offense, to imprisonment for at least sixthree months.
- (2) For a third offense, to imprisonment for at least one yearsix months.
- (3) For a fourth or subsequent offense, to imprisonment for fivethree years.
- d. A substance classified in schedule V, is guilty of a class A misdemeanor.
2. A prior misdemeanor conviction under subsection 8 or a prior conviction under subsection 3 or 4 of section 19-03.4-03 may not be considered a prior offense under subsections 1 and 4.
3. Except as authorized by this chapter, it is unlawful for any person to willfully, as defined in section 12.1-02-02, create, deliver, distribute, or dispense a counterfeit substance by means of the internet or any other means, or possess with intent to deliver, a counterfeit substance by means of the internet or any other means, but any person who violates section 12-46-24 or 12-47-21 may not be prosecuted under this subsection. Any person who violates this subsection with respect to:
- a. A counterfeit substance classified in schedule I or II which is a narcotic drug, is guilty of a class A felony.
  - b. Any otherA counterfeit substance classified in schedule I, II, or III, is guilty of a class B felony.
  - c. A counterfeit substance classified in schedule IV, is guilty of a class C felony.
  - d. C A counterfeit substance classified in schedule V, is guilty of a class A misdemeanor.
- 3.4. For second or subsequent offenders, in addition to any other penalty imposed under this section, a person who violates this chapter, except a person who manufactures, delivers, or possesses with the intent to manufacture or deliver marijuana, is subject to, and the court shall impose, the following penalties to run consecutively to any other sentence imposed:
- a. AnyA person, eighteen years of age or older, who violates this section by willfully manufacturing, delivering, or possessing with intent to manufacture or deliver a controlled substance in or on, or within one thousand feet [300.48 meters] of the real property comprising a public or private elementary or secondary school or a public career and technical education school is subject to an eight yeara four-year term of imprisonment.
  - b. If the defendant was at least twenty-one years of age at the time of the offense, and delivered a controlled substance to a person under the age of eighteen, the defendant must be sentenced to imprisonment for at least eightfour years. It is not a defense that the defendant did not know the age of a person protected under this subdivision.
- 4.5. A person at least eighteen years of age who solicits, induces, intimidates, employs, hires, or uses a person under eighteen years of age to aid or assist in the manufacture, delivery, or possession with intent to manufacture or

deliver a controlled substance for the purpose of receiving consideration or payment for the manufacture or delivery of any controlled substance is guilty of a class B felony and must be sentenced:

- a. For a second or subsequent offense, to imprisonment for at least fivethree years.
- b. It is not a defense to a violation of this subsection that the defendant did not know the age of a person protected under this subsection.

5. A

6. Except for a prior conviction equivalent to a misdemeanor violation of subsection 8 or a prior conviction under subsection 3 or 4 of section 19-03.4-03, a violation of this chapter or a law of another state or the federal government which is equivalent to an offense under this chapter committed while the offender was an adult and which resulted in a plea or finding of guilt must be considered a prior offense under subsections 1, 34, and 45. The prior offense must be alleged in the complaint, information, or indictment. The plea or finding of guilt for the prior offense must have occurred before the date of the commission of the offense or offenses charged in the complaint, information, or indictment.

6-7. It is unlawful for a person to willfully, as defined in section 12.1-02-02:

- a. Serve as an agent, intermediary, or other entity that causes the internet to be used to bring together a buyer and seller to engage in the delivery, distribution, or dispensing of a controlled substance in a manner not authorized by this chapter; or
- b. Offer to fill or refill a prescription for a controlled substance based solely on a consumer's completion of an online medical questionnaire.

A person who violates this subsection is guilty of a class C felony.

7-8. a. It is unlawful for any person to willfully, as defined in section 12.1-02-02, possess a controlled substance or a controlled substance analog unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of the practitioner's professional practice, or except as otherwise authorized by this chapter, but any person who violates section 12-46-24 or 12-47-21 may not be prosecuted under this subsection.

b. Except as otherwise provided in this subsection, any person who violates this subsection is guilty of a class C felony.

c. If, at the time of the offense the person is in or on, or within one thousand feet [300.48 meters] of the real property comprising a public or private elementary or secondary school or a public career and technical education school, the person is guilty of a class B felony, unless the offense involves one ounce [28.35 grams] or less of marijuana. Any

d. A person who violates this subsection regarding possession of one ounce [28.35 grams] or less of marijuana is guilty of a class B misdemeanor.

e. A person who violates this subsection regarding possession of five or fewer capsules, pills, or tablets of a schedule II, III, IV, or V controlled

substance or controlled substance analog is guilty of a class A misdemeanor.

- 8.9. Except as provided by section 19-03.1-45, a court may order a person who violates this chapter or chapter 19-03.4 to undergo a drug addiction evaluation by a licensed addiction counselor. The evaluation must indicate the prospects for rehabilitation and whether addiction treatment is required. If ordered, the evaluation must be submitted to the court before imposing punishment for a felony violation or a misdemeanor violation. A court shall order a person who violates subdivision e of subsection 8 to undergo the drug addiction evaluation.
- 9.10. If a person pleads guilty or is found guilty of a first offense regarding possession of one ounce [28.35 grams] or less of marijuana and a judgment of guilt is entered, a court, upon motion, shall seal the court record of that conviction if the person is not subsequently convicted within two years of a further violation of this chapter. Once sealed, the court record may not be opened even by order of the court.

<sup>74</sup> **SECTION 7. AMENDMENT.** Subsection 2 of section 19-03.1-23.1 of the North Dakota Century Code is amended and reenacted as follows:

2. The offense is:
  - a. A class AA felony if the violation of section 19-03.1-23 is designated as a class A felony.
  - b. A class A felony if the violation of section 19-03.1-23 is designated as a class B felony.
  - c. A class B felony if the violation of section 19-03.1-23 is designated as a class C felony.
  - d. c. A class C felony if the violation of section 19-03.1-23 is designated as a class A misdemeanor.

**SECTION 8. AMENDMENT.** Section 19-03.1-23.4 of the North Dakota Century Code is amended and reenacted as follows:

#### **19-03.1-23.4. Overdose prevention and immunity.**

An individual is immune from criminal prosecution under sections 19-03.1-22.1, 19-03.1-22.3, 19-03.1-22.5, subsection 78 of section 19-03.1-23, subsection 3 of section 19-03.2-03, and section 19-03.4-03 if in good faith that individual contacted law enforcement or emergency medical services and reported that the individual was or that seeks medical assistance for another individual was in need of emergency medical assistance due to a drug overdose. To receive immunity under this section, the individual receiving immunity must have remained on the scene until assistance arrived, cooperated with emergency medical services and law enforcement personnel in the medical treatment of the reported drug overdosed individual, and the overdosed individual must have been in need of emergency medical services. The maximum number of individuals that may be immune for any one occurrence is three individuals a condition a layperson would reasonably believe to be a drug overdose requiring immediate medical assistance. Neither the individual who experiences a

<sup>74</sup> Section 19-03.1-23.1 was also amended by section 13 of House Bill No. 1041, chapter 108, section 1 of House Bill No. 1270, chapter 167, and section 3 of House Bill No. 1341, chapter 165.

drug-related overdose and is in need of emergency medical assistance nor the cooperating individual seeking medical assistance may be charged or prosecuted for the criminal offenses listed in this section or for the sharing of controlled substances among those present. Immunity from prosecution under this section is not applicable for a violation under section 19-03.1-23.1does not apply unless the evidence for the charge or prosecution was obtained as a result of the drug-related overdose and the need for emergency medical assistance. Good faith does not include seeking medical assistance during the course of the execution of an arrest warrant or search warrant or during a lawful search.

**SECTION 9. AMENDMENT.** Paragraph 3 of subdivision e of subsection 1 of section 19-03.1-36 of the North Dakota Century Code is amended and reenacted as follows:

- (3) A conveyance is not subject to forfeiture for a violation of subsection 78 of section 19-03.1-23 or subsection 3 of section 19-03.2-03.

**SECTION 10. AMENDMENT.** Subdivision e of subsection 5 of section 19-03.1-36 of the North Dakota Century Code is amended and reenacted as follows:

- e. Use the property, including controlled substances, imitation controlled substances, and plants forfeited under subsections 6 and 7, in enforcement of this chapter. However, in a case involving the delivery of a forfeited controlled substance by a law enforcement officer or a person acting as an agent of a law enforcement officer, no prosecution or conviction for simple possession of a controlled substance under subsection 67 of section 19-03.1-23 may be based upon the forfeited controlled substances supplied by the law enforcement officer or the officer's agent.

**SECTION 11. AMENDMENT.** Subsection 1 of section 19-03.1-45 of the North Dakota Century Code is amended and reenacted as follows:

1. If a person has pled guilty or has been found guilty of a felony violation of subsection 78 of section 19-03.1-23, if that person has not previously pled guilty or been found guilty of any offense involving the use, possession, manufacture, or delivery of a controlled substance or of any other felony offense of this or another state or the federal government, the court shall impose a period of probation up to the length authorized under section 12.1-32-06.1 with a suspended execution of a sentence of imprisonment, a sentence to probation, or an order deferring imposition of sentence.

**SECTION 12. AMENDMENT.** Subsection 29 of section 40-05-02 of the North Dakota Century Code is amended and reenacted as follows:

29. Marijuana possession. To prohibit by ordinance any person, except a person operating a motor vehicle, from possessing not more than one-half one ounce [14.17528.35 grams] of marijuana, as defined by section 19-03.1-01, within the jurisdiction of a city, and to prescribe the punishment, provided the penalty assessed is subject to subsection 910 of section 19-03.1-23.

Approved April 21, 2017

Filed April 21, 2017

# CHAPTER 165

## HOUSE BILL NO. 1341

(Representative Rick C. Becker)

AN ACT to amend and reenact subsections 3 and 7 of section 19-03.1-23 and subsection 1 of section 19-03.1-23.1 of the North Dakota Century Code, relating to the elimination of enhanced penalties for manufacturing, delivering, or possessing controlled substances near schools; and to provide a penalty.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

<sup>75</sup> **SECTION 1. AMENDMENT.** Subsection 3 of section 19-03.1-23 of the North Dakota Century Code is amended and reenacted as follows:

3.
  - a. For second or subsequent ~~offenders~~offenses, in addition to any other penalty imposed under this section, ~~if the person who violates this chapter, except a person who manufactures, delivers, or possesses with the intent to manufacture or deliver marijuana, was at least twenty-one years of age at the time of the offense, and delivered a controlled substance to a person under the age of eighteen, the person is subject to, and the court shall impose, the following penalties to run consecutively to any other sentence imposed:~~  
~~willfully manufacturing, delivering, or possessing with intent to manufacture or deliver a controlled substance in or on, or within one thousand feet [300.48 meters] of the real property comprising a public or private elementary or secondary school or a public career and technical education school is subject to an eight year term of imprisonment.~~  
~~b. If the defendant was at least twenty-one years of age at the time of the offense, and delivered a controlled substance to a person under the age of eighteen, the defendant must be sentenced to a term of imprisonment for at least eight~~four~~ years which is to run consecutively to any other sentence imposed.~~  
~~b. It is not a defense that the defendant did not know the age of a person protected under this subdivision a.~~  
~~c. The penalty in subdivision a does not apply to a person who manufactures, delivers, or possesses with the intent to manufacture or deliver marijuana.~~

<sup>75</sup> Section 19-03.1-23 was also amended by section 12 of House Bill No. 1041, chapter 108, section 6 of House Bill No. 1269, chapter 164, and section 2 of House Bill No. 1341, chapter 165.

**76 SECTION 2. AMENDMENT.** Subsection 7 of section 19-03.1-23 of the North Dakota Century Code is amended and reenacted as follows:

7. It is unlawful for any person to willfully, as defined in section 12.1-02-02, possess a controlled substance or a controlled substance analog unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of the practitioner's professional practice, or except as otherwise authorized by this chapter, but any person who violates section 12-46-24 or 12-47-21 may not be prosecuted under this subsection. Except as otherwise provided in this subsection, any person who violates this subsection is guilty of a class A misdemeanor for a first offense under this subsection and a class C felony for a second or subsequent offense under this subsection. If, at the time of the offense the person is in or on, or within one thousand feet [300.48 meters] of the real property comprising a public or private elementary or secondary school or a public career and technical education school, the person is guilty of a class B felony, unless the offense involves one ounce [28.35 grams] or less of marijuana. Any person who violates this subsection regarding possession of one ounce [28.35 grams] or less of marijuana is guilty of a class B misdemeanor.

**77 SECTION 3. AMENDMENT.** Subsection 1 of section 19-03.1-23.1 of the North Dakota Century Code is amended and reenacted as follows:

1. A person who violates section 19-03.1-23 is subject to the penalties provided in subsection 2 if:
  - a. The offense was committed during a school sponsored activity or was committed during the hours of six a.m. to ten p.m. if school is in session, the offense involved the manufacture, delivery, or possession, with intent to manufacture or deliver a controlled substance in or, on, or within one thousand feet [300.48 meters] three hundred feet [91.4 meters] of, the real property comprising a child care or preschool facility, a public or private elementary or secondary school, or a public career and technical education school, or a public or private college or university;
  - b. The defendant was at least sixteen twenty-one years of age at the time of the offense, and the offense involved the delivery of a controlled substance to a minor;
  - c. The offense involved:
    - (1) Fifty grams or more of a mixture or substance containing a detectable amount of heroin;
    - (2) Fifty grams or more of a mixture or substance containing a detectable amount of:

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<sup>76</sup> Section 19-03.1-23 was also amended by section 12 of House Bill No. 1041, chapter 108, section 6 of House Bill No. 1269, chapter 164, and section 1 of House Bill No. 1341, chapter 165.

<sup>77</sup> Section 19-03.1-23.1 was also amended by section 13 of House Bill No. 1041, chapter 108, section 7 of House Bill No. 1269, chapter 164, and section 1 of House Bill No. 1270, chapter 167.

- (a) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;
  - (b) Cocaine, its salts, optical and geometric isomers, and salts of isomers;
  - (c) Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or
  - (d) Any compound, mixture, or preparation that contains any quantity of any of the substance referred to in subparagraphs a through c;
- (3) Five grams or more of a mixture or substance described in paragraph 2 which contains cocaine base;
- (4) Ten grams or more of phencyclidine or one hundred grams or more of a mixture or substance containing a detectable amount of phencyclidine;
- (5) One gram, one hundred dosage units, or one-half liquid ounce or more of a mixture or substance containing a detectable amount of lysergic acid diethylamide;
- (6) Forty grams or more of a mixture or substance containing a detectable amount of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide or ten grams or more of a mixture or substance containing a detectable amount of any analog of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide;
- (7) Fifty grams or more of a mixture or substance containing a detectable amount of methamphetamine;
- (8) Ten grams, one hundred dosage units, or one-half liquid ounce or more of a mixture or substance containing a detectable amount of 3,4-methylenedioxy-N-methylamphetamine, C<sub>11</sub>H<sub>15</sub>NO<sub>2</sub>;
- (9) One hundred dosage units or one-half liquid ounce of a mixture or substance containing a detectable amount of gamma-hydroxybutyrate or gamma-butylactone or 1,4 butanediol or any substance that is an analog of gamma-hydroxybutyrate;
- (10) One hundred dosage units or one-half liquid ounce of a mixture or substance containing a detectable amount of flunitrazepam; or
- (11) Five hundred grams or more of marijuana; or
- d.c. The defendant had a firearm in the defendant's actual possession at the time of the offense.

Approved April 18, 2017

Filed April 18, 2017

## CHAPTER 166

### SENATE BILL NO. 2320

(Senators Anderson, J. Lee, Matherne)  
(Representatives J. Nelson, Seibel, Weisz)

AN ACT to create and enact a new subsection to section 19-03.4-02 and a new section to chapter 23-01 of the North Dakota Century Code, relating to drug paraphernalia guidelines and a syringe exchange program.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1.** A new subsection to section 19-03.4-02 of the North Dakota Century Code is created and enacted as follows:

Whether the object is a needle or syringe collected during the operation of a needle exchange program under chapter 23-01 to aid in the prevention of bloodborne diseases.

**SECTION 2.** A new section to chapter 23-01 of the North Dakota Century Code is created and enacted as follows:

**Syringe or needle exchange program - Authorization.**

1. As used in this section:
  - a. "Program" means a syringe exchange program operated under this section.
  - b. "Qualified entity" means:
    - (1) A local health department;
    - (2) A city that operates a program within the boundaries of the city; or
    - (3) An organization that has been authorized to operate a program by the state department of health, the board of county commissioners, or the governing body for the operation of a program within the boundaries of the city.
2. The state department of health may authorize a qualified entity to operate a program in a county if:
  - a. The area to be served is at risk of an increase or potential increase in prevalence of viral hepatitis or human immunodeficiency virus;
  - b. A syringe exchange program is medically appropriate as part of a comprehensive public health response; and
  - c. The qualified entity conducted a public hearing and submitted a report of the findings and an administration plan for the program to the state health officer.
3. A qualified entity operating a program under this chapter shall:

- a. Register the program annually in the manner prescribed by the state department of health;
  - b. Have a pharmacist, physician, or advanced practice registered nurse who is licensed in the state to provide oversight for the program;
  - c. Store and dispose of all syringes and needles collected in a safe and legal manner;
  - d. Provide education and training on drug overdose response and treatment, including the administration of an overdose reversal medication;
  - e. Provide education, referral, and linkage to human immunodeficiency virus, viral hepatitis, and sexually transmitted disease prevention, treatment, and care services;
  - f. Provide drug addiction treatment information, and referrals to drug treatment programs, including programs in the local area and programs that offer medication-assisted treatment that includes a federal food and drug administration approved long-acting, non-addictive medication for the treatment of opioid or alcohol dependence;
  - g. Provide syringe, needle, and injection supply distribution and collection without collecting or recording personally identifiable information;
  - h. Operate in a manner consistent with public health and safety; and
  - i. Ensure the program is medically appropriate and part of a comprehensive public health response.
4. The state department of health may terminate a program for failure to comply with any of the provisions in this section.
  5. A state agency may not provide general fund monies to a program to purchase or otherwise acquire hypodermic syringes, needles, or injection supplies for a program under this section.
  6. A law enforcement officer may not stop, search, or seize an individual based on the individual's participation in a program under this section. Syringes and needles appropriately collected under this section are not considered drug paraphernalia as provided in chapter 19-03.4.
  7. Each program shall file a semiannual report with the state department of health containing the following information listed on a daily basis and by location, identified by the postal zip code, where the program distributed and collected syringes and needles:
    - a. The number of individuals served;
    - b. The number of syringes and needles collected;
    - c. The number of syringes and needles distributed; and
    - d. Any additional information requested by the state department of health.

Approved March 24, 2017

Filed March 24, 2017

## CHAPTER 167

### HOUSE BILL NO. 1270

(Representative Olson)

AN ACT to amend and reenact paragraph 3 of subdivision c of subsection 1 of section 19-03.1-23.1 of the North Dakota Century Code, relating to aggravating factors in drug offenses; and to provide a penalty.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

<sup>78</sup> **SECTION 1. AMENDMENT.** Paragraph 3 of subdivision c of subsection 1 of section 19-03.1-23.1 of the North Dakota Century Code is amended and reenacted as follows:

(3) ~~Five~~<sup>Twenty-eight</sup> grams or more of a mixture or substance described in paragraph 2 which contains cocaine base;

Approved March 13, 2017

Filed March 13, 2017

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<sup>78</sup> Section 19-03.1-23.1 was also amended by section 13 of House Bill No. 1041, chapter 108, section 7 of House Bill No. 1269, chapter 164, and section 3 of House Bill No. 1341, chapter 165.

## CHAPTER 168

### HOUSE BILL NO. 1099

(Judiciary Committee)  
(At the request of the State Board of Pharmacy)

AN ACT to amend and reenact subsection 3 of section 19-03.5-01 of the North Dakota Century Code, relating to the definition of controlled substance.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Subsection 3 of section 19-03.5-01 of the North Dakota Century Code is amended and reenacted as follows:

3. "Controlled substance" means a drug, substance, or immediate precursor defined in section 19-03.1-01 and nonscheduled substances containing tramadol or carisoprodol gabapentin.

Approved March 2, 2017

Filed March 3, 2017

## CHAPTER 169

### SENATE BILL NO. 2262

(Senators Wanzek, Klein, Dotzenrod)  
(Representatives Headland, D. Johnson, Trottier)

AN ACT to create and enact a new section to chapter 19-20.1 of the North Dakota Century Code, relating to fertilizer regulation by cities, counties, or townships.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1.** A new section to chapter 19-20.1 of the North Dakota Century Code is created and enacted as follows:

**Fertilizer regulation and use - Preemption - Prohibition.**

Except as otherwise provided in this chapter, a city, county, or township may not enact new ordinances or resolutions regulating or prohibiting the registration, labeling, distribution, sale, handling, use, or application of fertilizer. This section does not preempt or otherwise limit the authority of a city, county, or township to adopt and enforce fire codes or hazardous waste disposal restrictions.

Approved April 7, 2017

Filed April 7, 2017

## CHAPTER 170

### SENATE BILL NO. 2154

(Senators Wardner, Heckaman)  
(Representatives Carlson, Mock)

AN ACT to provide for suspension of certain provisions of the North Dakota Compassionate Care Act; to provide a contingent expiration date; and to declare an emergency.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. SUSPENSION.** Provisions of chapter 19-24, the North Dakota Compassionate Care Act, relating to issuance of applications by the state department of health, receipt by the department of applications for registration, and the duty of the department to issue certificates of registration are suspended.

**SECTION 2. CONTINGENT EXPIRATION DATE.** Section 1 of this Act is effective through July 31, 2017, or the effective date of legislation enacted by the sixty-fifth legislative assembly authorizing the prescription, dispensing, growth, and use of medical marijuana, whichever occurs first.

**SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure.

Approved January 26, 2017

Filed January 26, 2017

## CHAPTER 171

### SENATE BILL NO. 2344

(Senators Wardner, Heckaman)  
(Representatives Carlson, Mock)  
(Approved by the Delayed Bills Committee)

AN ACT to create and enact chapter 19-24.1 of the North Dakota Century Code, relating to medical marijuana; to amend and reenact section 54-60-03, paragraph 3 of subdivision a of subsection 15 of section 57-02-08, and paragraph 2 of subdivision b of subsection 15 of section 57-02-08 of the North Dakota Century Code, relating to primary sector business certification and property tax exemptions for farm buildings and residences; to repeal chapter 19-24 of the North Dakota Century Code, relating to medical marijuana; to provide a statement of legislative intent; to provide for a report; to provide a penalty; to provide a continuing appropriation; and to declare an emergency.

#### **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1.** Chapter 19-24.1 of the North Dakota Century Code is created and enacted as follows:

##### **19-24.1-01. Definitions.**

As used in this chapter, unless the context indicates otherwise:

1. "Advanced practice registered nurse" means an advanced practice registered nurse defined under section 43-12.1-02.
2. "Allowable amount of usable marijuana" means the amount of usable marijuana a registered qualifying patient or registered designated caregiver may purchase in a thirty-day period under this chapter.
  - a. During a thirty-day period, a registered qualifying patient may not purchase or have purchased by a registered designated caregiver more than two and one-half ounces [70.87 grams] of dried leaves or flowers of the plant of genus cannabis in a combustible delivery form. At any time a registered qualifying patient, or a registered designated caregiver on behalf of a registered qualifying patient, may not possess more than three ounces [85.05 grams] of dried leaves or flowers of the plant of the genus cannabis in a combustible delivery form.
  - b. A registered qualifying patient may not purchase or have purchased by a registered designated caregiver more than the maximum concentration or amount of tetrahydrocannabinol permitted in a thirty-day period. The maximum concentration or amount of tetrahydrocannabinol permitted in a thirty-day period for a cannabinoid concentrate or medical cannabinoid product, or the cumulative total of both, is two thousand milligrams.
3. "Bona fide provider-patient relationship" means a treatment or counseling relationship between a health care provider and patient in which all the following are present:

- a. The health care provider has reviewed the patient's relevant medical records and completed a full assessment of the patient's medical history and current medical condition, including a relevant, in-person, medical evaluation of the patient.
  - b. The health care provider has created and maintained records of the patient's condition in accordance with medically accepted standards.
  - c. The patient is under the health care provider's continued care for the debilitating medical condition that qualifies the patient for the medical use of marijuana.
  - d. The health care provider has a reasonable expectation that provider will continue to provide followup care to the patient to monitor the medical use of marijuana as a treatment of the patient's debilitating medical condition.
  - e. The relationship is not for the sole purpose of providing written certification for the medical use of marijuana.
4. "Cannabinoid" means a chemical compound that is one of the active constituents of marijuana.
  5. "Cannabinoid capsule" means a small, soluble container, usually made of gelatin, which encloses a dose of a cannabinoid product or a cannabinoid concentrate intended for consumption. The maximum concentration or amount of tetrahydrocannabinol permitted in a serving of a cannabinoid capsule is fifty milligrams.
  6. "Cannabinoid concentrate" means a concentrate or extract obtained by separating cannabinoids from marijuana by a mechanical, chemical, or other process.
  7. "Cannabinoid edible product" means a food or potable liquid into which a cannabinoid concentrate or the dried leaves or flowers of the plant of the genus cannabis is incorporated.
  8. "Cannabinoid tincture" means a solution of alcohol, cannabinoid concentrate, and other ingredients intended for consumption.
  9. "Cannabinoid topical" means a cannabinoid product intended to be applied to the skin or hair. The maximum concentration or amount of tetrahydrocannabinol permitted in a cannabinoid topical is six percent.
  10. "Cannabinoid transdermal patch" means an adhesive substance applied to the skin which contains a cannabinoid product or cannabinoid concentrate for absorption into the bloodstream. The maximum concentration or amount of tetrahydrocannabinol permitted in a serving of a cannabinoid transdermal patch is fifty milligrams.
  11. "Cardholder" means a qualifying patient, designated caregiver, or compassion center agent who has been issued and possesses a valid registry identification card.
  12. "Compassion center" means a manufacturing facility or dispensary.

13. "Compassion center agent" means a principal officer, board member, member, manager, governor, employee, volunteer, or agent of a compassion center.
14. "Contaminated" means made impure or inferior by extraneous substances.
15. "Debilitating medical condition" means one of the following:
  - a. Cancer;
  - b. Positive status for human immunodeficiency virus;
  - c. Acquired immune deficiency syndrome;
  - d. Decompensated cirrhosis caused by hepatitis C;
  - e. Amyotrophic lateral sclerosis;
  - f. Posttraumatic stress disorder;
  - g. Agitation of Alzheimer's disease or related dementia;
  - h. Crohn's disease;
  - i. Fibromyalgia;
  - j. Spinal stenosis or chronic back pain, including neuropathy or damage to the nervous tissue of the spinal cord with objective neurological indication of intractable spasticity;
  - k. Glaucoma;
  - l. Epilepsy;
  - m. A terminal illness; and
  - n. A chronic or debilitating disease or medical condition or treatment for such disease or medical condition that produces one or more of the following:
    - (1) Cachexia or wasting syndrome;
    - (2) Severe 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;
    - (3) Intractable nausea;
    - (4) Seizures; or
    - (5) Severe and persistent muscle spasms, including those characteristic of multiple sclerosis.
16. "Department" means the state department of health.

17. "Designated caregiver" means an individual who agrees to manage the well-being of a registered qualifying patient with respect to the qualifying patient's medical use of marijuana.
18. "Dispensary" means an entity registered by the department as a compassion center authorized to dispense usable marijuana to a registered qualifying patient and a registered designated caregiver.
19. "Enclosed, locked facility" means a closet, room, greenhouse, building, or other enclosed area equipped with locks or other security devices that permit access limited to individuals authorized under this chapter or rules adopted under this chapter.
20. "Health care provider" means a physician or an advanced practice registered nurse.
21. "Manufacturing facility" means an entity registered by the department as a compassion center authorized to produce and process and to sell usable marijuana to a dispensary.
22. "Marijuana" means all parts of the plant of the genus cannabis; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, the seeds of the plant, or the resin extracted from any part of the plant.
23. "Maximum concentration or amount of tetrahydrocannabinol" means the total amount of tetrahydrocannabinol and tetrahydrocannabinolic acid in a medical cannabinoid product or a cannabinoid concentrate.
24. "Medical cannabinoid product" means a product intended for human consumption or use which contains cannabinoids.
  - a. Medical cannabinoid products are limited to the following forms:
    - (1) Cannabinoid tincture;
    - (2) Cannabinoid capsule;
    - (3) Cannabinoid transdermal patch; and
    - (4) Cannabinoid topical.
  - b. "Medical cannabinoid product" does not include:
    - (1) A cannabinoid edible product;
    - (2) A cannabinoid concentrate by itself; or
    - (3) The dried leaves or flowers of the plant of the genus cannabis by itself.
25. "Medical marijuana product" means a cannabinoid concentrate or a medical cannabinoid product.
26. "Medical marijuana waste" means unused, surplus, returned, or out-of-date usable marijuana; recalled usable marijuana; unused marijuana; or plant

- debris of the plant of the genus cannabis, including dead plants and all unused plant parts and roots.
27. "Medical use of marijuana" means the acquisition, use, and possession of usable marijuana to treat or alleviate a qualifying patient's debilitating medical condition.
28. "Minor" means an individual under the age of nineteen.
29. "North Dakota identification" means a North Dakota driver's license or comparable state of North Dakota or federal issued photo identification card verifying North Dakota residence.
30. "Pediatric medical marijuana" means a medical marijuana product containing cannabidiol which may not contain a maximum concentration or amount of tetrahydrocannabinol of more than six percent.
31. "Physician" means a physician licensed under chapter 43-17 to practice medicine in the state of North Dakota.
32. "Posttraumatic stress disorder" means a patient meets the diagnostic criteria for posttraumatic stress disorder under the "Diagnostic and Statistical Manual of Mental Disorders". American psychiatric association, fifth edition, text revision (2013).
33. "Processing" or "process" means the compounding or conversion of marijuana into a medical marijuana product.
34. "Producing", "produce", or "production" mean the planting, cultivating, growing, trimming, or harvesting of the plant of the genus cannabis or the drying of the leaves or flowers of the plant of the genus cannabis.
35. "Qualifying patient" means an individual who has been diagnosed by a health care provider as having a debilitating medical condition.
36. "Registry identification card" means a document issued by the department which identifies an individual as a registered qualifying patient, registered designated caregiver, or registered compassion center agent.
37. "Terminal illness" means a disease, illness, or condition of a patient:
  - a. For which there is not a reasonable medical expectation of recovery;
  - b. Which as a medical probability will result in the death of the patient, regardless of the use or discontinuance of medical treatment implemented for the purpose of sustaining life or the life processes; and
  - c. As a result of which, the patient's health care provider would not be surprised if death were to occur within six months.
38. "Usable marijuana" means a medical marijuana product or the dried leaves or flowers of the plant of the genus cannabis in a combustible delivery form. However, the term does not include the dried leaves or flowers unless authorized through a written certification and does not include a cannabinoid.

edible product. In the case of a registered qualifying patient who is a minor, "usable marijuana" is limited to pediatric medical marijuana.

39. "Verification system" means the system maintained by the department under section 19-24.1-31 for verification of registry identification cards.
40. "Written certification" means a form established by the department which is executed, dated, and signed by a health care provider within ninety calendar days of the date of application, stating that in the health care provider's professional opinion the patient is likely to receive therapeutic or palliative benefit from the medical use of marijuana to treat or alleviate the patient's debilitating medical condition. A health care provider may authorize the use of dried leaves or flowers of the plant of the genus cannabis in a combustible delivery form to treat or alleviate the patient's debilitating medical condition. A written certification may not be made except in the course of a bona fide provider-patient relationship.

#### **19-24.1-02. Medical marijuana program.**

The department shall establish and implement a medical marijuana program under this chapter to allow for production and processing, the sale and dispensing of usable marijuana, and medical use of marijuana. A person may not produce or process or sell, possess, transport, dispense, or use marijuana or usable marijuana under the medical marijuana program unless the person is authorized to do so as a compassion center, a cardholder, or otherwise authorized by rule adopted under this chapter.

#### **19-24.1-03. Qualifying patients - Registration.**

1. A qualifying patient is not eligible to purchase, use, or possess usable marijuana under the medical marijuana program unless the qualifying patient has a valid registry identification card.
2. A qualifying patient application for a registry identification card is complete and eligible for review if an applicant submits to the department:
  - a. A nonrefundable annual application fee in the amount of fifty dollars, with a personal check or cashier's check payable to "North Dakota State Department of Health, Medical Marijuana Program".
  - b. An original written certification, which must include:
    - (1) The name, address, and telephone number of the practice location of the applicant's health care provider;
    - (2) The health care provider's North Dakota license number;
    - (3) The health care provider's medical or nursing specialty;
    - (4) The applicant's name and date of birth;
    - (5) The applicant's debilitating medical condition and the medical justification for the health care provider's certification of the patient's debilitating medical condition;

- (6) Attestation the written certification is made in the course of a bona fide provider-patient relationship and that in the provider's professional opinion the applicant is likely to receive therapeutic or palliative benefit from the medical use of marijuana to treat or alleviate the applicant's debilitating medical condition;
- (7) Whether the health care provider authorizes the patient to use the dried leaves or flowers of the plant of the genus cannabis in a combustible delivery form; and
- (8) The health care provider's signature and the date.
- c. An original qualifying patient application for a registry identification card form established by the department which must include all of the following:
- (1) The applicant's name, address, and date of birth.
  - (2) The applicant's social security number.
  - (3) The name, address, and date of birth of the applicant's proposed designated caregiver, if any.
  - (4) A photographic copy of the applicant's North Dakota identification. The North Dakota identification must be available for inspection and verification upon request of the department. If the applicant is a minor, a certificated copy of a birth record is required.
  - (5) The applicant's or guardian's signature and the date, or in the case of a minor, the signature of the minor's parent or legal guardian with responsibility for health care decisions and the date.
- d. A signed consent for release of medical information related to the applicant's debilitating medical condition, on a form provided by the department.
- e. A recent two-by-two inch [5.08-by-5.08 centimeter] photograph of the applicant.
- f. Any other information or material required by rule adopted under this chapter.
3. If the applicant is unable to submit the required application information due to age or medical condition, the individual responsible for making medical decisions for the applicant may submit the application on behalf of the applicant. The individual responsible for making medical decisions:
- a. Must be identified on the qualifying patient application for a registry identification card; and
  - b. Shall provide a copy of the individual's North Dakota identification. The North Dakota identification must be available for inspection and verification upon the request of the department.
4. If the applicant is a minor, the department may waive the application or renewal fee if:

- a. The parent or legal guardian of the applicant is the applicant's registered designated caregiver; and
- b. The applicant resides with the applicant's registered designated caregiver.

**19-24.1-04. Designated caregivers - Registration.**

1. A designated caregiver is not eligible to purchase, assist in the use of, or possess usable marijuana under the medical marijuana program unless the designated caregiver has a valid registry identification card.
2. A designated caregiver application is complete and eligible for review if an applicant submits to the department all of the following:
  - a. A nonrefundable annual application fee in the amount of fifty dollars, with a personal check or cashier's check made payable to "North Dakota State Department of Health, Medical Marijuana Program".
  - b. An original designated caregiver application for a registry identification card form established by the department which must include all of the following:
    - (1) A certified copy of a birth record verifying the applicant is at least twenty-one years of age.
    - (2) A photographic copy of the applicant's North Dakota identification. The North Dakota identification must be available for inspection and verification upon request of the department.
    - (3) The name, address, telephone number, and date of birth of the qualifying patient.
    - (4) The name, address, and telephone number for the qualifying patient's health care provider.
    - (5) The name, address, and telephone number of the applicant.
    - (6) The applicant's social security number.
    - (7) The applicant's signature and the date.
  - c. An original designated caregiver authorization form established by the department which must be executed by a registered qualifying patient providing the designated caregiver applicant with the responsibility of managing the well-being of the registered qualifying patient with respect to the registered qualifying patient's medical use of marijuana. The form must include:
    - (1) The name and date of birth of the designated caregiver applicant; and
    - (2) The registered qualifying patient's signature and the date.
  - d. A recent two-by-two inch [5.08-by-5.08 centimeter] photograph of the applicant.
  - e. Any other information or material required by the department by rule.

3. A criminal history record check conducted under section 12-60-24 must be performed upon initial application and biennially thereafter and at any other time upon the request of the department. All fees associated with the criminal history record check must be paid by the applicant.
4. An individual convicted of a drug-related misdemeanor offense within the five years preceding the date of application or of a felony offense is prohibited from serving as a designated caregiver.
5. An applicant shall submit a separate and complete application for each of the applicant's registered qualifying patients. A registered designated caregiver may assist no more than five registered qualifying patients. A registered designated caregiver who is a registered qualifying patient may assist no more than four additional registered qualifying patients.
6. A registered designated caregiver may not purchase or possess more than the allowable amount of usable marijuana for each of the registered designated caregiver's registered qualifying patients and for the registered designated caregiver if the caregiver is a registered qualifying patient.

**19-24.1-05. Qualifying patients and designated caregivers - Identification cards - Issuance and denial.**

1. Upon receipt of a complete application for or renewal of a qualifying patient or designated caregiver registry identification card, the department shall verify the submitted information.
2. The verification methods used by the department on an application or renewal and accompanying documentation may include:
  - a. Contacting an applicant by telephone or mail, or if proof of identity is uncertain, the department shall require a face-to-face meeting and the production of additional identification materials;
  - b. Contacting the North Dakota board of medicine or North Dakota board of nursing to verify the certifying health care provider is licensed in the state and is in good standing; and
  - c. Contacting the health care provider to obtain additional documentation verifying the qualifying patient applicant's medical diagnosis and medical condition qualify the applicant for participation in the medical marijuana program.
3. Upon verification of the information contained in an application or renewal, the department shall approve or deny the application or renewal.
4. Except as provided in subsection 5, the department shall issue a registry identification card within thirty calendar days of approving an application or renewal. A designated caregiver must have a registry identification card for each of the designated caregiver's registered qualifying patients.
5. The department may not issue a registry identification card to a qualifying patient who is a minor unless:
  - a. The department receives documentation the minor's health care provider has explained to the parent or legal guardian with responsibility for health

care decisions for the minor the potential risks and benefits of the use of pediatric medical marijuana to treat or alleviate the debilitating medical condition; and

- b. The department receives documentation the parent or legal guardian with responsibility for health care decisions for the minor consents in writing to:
  - (1) Allow the minor's use of pediatric medical marijuana to treat or alleviate the debilitating medical condition;
  - (2) Serve as the minor's designated caregiver or identifies a registered designated caregiver to act as the minor's designated caregiver;
  - (3) Control the acquisition of usable marijuana and control the dosage and frequency of the use of usable marijuana by the minor; and
  - (4) If serving as the minor's designated caregiver, prevent the minor from accessing the usable marijuana by storing the usable marijuana in an enclosed, locked facility.
6. If the department denies an application or renewal, the applicant may not reapply for one year from the date of the denial, unless otherwise authorized by the department, and the applicant is prohibited from all lawful privileges provided under this chapter.
7. The department shall deny an application for or renewal of a qualifying patient's registry identification card if the applicant:
  - a. Does not meet the requirements of this section or section 19-24.1-03;
  - b. Did not provide the required information and materials;
  - c. Previously had a registry identification card revoked; or
  - d. Provided false or falsified information or made a material misstatement.
8. The department shall deny an application for or renewal of a designated caregiver registry identification card if the designated caregiver applicant:
  - a. Does not meet the requirements of this section or section 19-24.1-04;
  - b. Did not provide the required information and materials;
  - c. Previously had a registry identification card revoked; or
  - d. Provided false or falsified information or made a material misstatement.
9. The department shall notify, in writing, the qualifying patient or designated caregiver applicant of the reason for denying an application or renewal.
10. The department shall notify the following in writing:
  - a. A registered qualifying patient if that patient's designated caregiver's application or renewal is denied; and

- b. A registered designated caregiver if that caregiver's qualifying patient's application or renewal is denied.
11. The cardholder may appeal a denial or revocation of a registry identification card to the district court of Burleigh County for hearing. The court may authorize the cardholder to appear by reliable electronic means.

#### **19-24.1-06. Registry identification cards - Renewal.**

To prevent interruption of possession of a valid registry identification card, a registered qualifying patient or registered designated caregiver shall apply for a registry identification card renewal by submitting a complete reapplication as provided under section 19-24.1-03 or 19-24.1-04 no less than forty-five calendar days before the expiration date of the existing registry identification card.

#### **19-24.1-07. Registry identification cards - Nontransferable.**

A registry identification card is not transferable, by assignment or otherwise, to another person. If a person attempts to transfer a card in violation of this section, the registry identification card is void and the person is prohibited from all privileges provided under this chapter.

#### **19-24.1-08. Qualifying patients and designated caregivers - Voluntary withdrawal.**

A registered qualifying patient or registered designated caregiver may voluntarily withdraw from participation in the medical marijuana program. A registered qualifying patient or registered designated caregiver seeking to withdraw from the medical marijuana program shall notify the department in writing no less than thirty calendar days before withdrawal.

#### **19-24.1-09. Cardholders - Eligibility and compliance.**

1. A cardholder shall provide the department or the department's designee immediate access to any material and information necessary for determining eligibility and compliance with this chapter.
2. Failure of a cardholder to provide the department access to the material, or information as provided under this chapter may result in the department taking action, which may include the revocation of the cardholder registry identification card and referral to state or local law enforcement.
3. Failure of a cardholder to comply with the requirements under this section which is documented by the department, may result in sanctions, including suspension, revocation, nonrenewal, or denial of registration, and referral to state or local law enforcement.
4. The department shall refer credible criminal complaints against a cardholder to appropriate state or local law enforcement authorities.
5. a. If a violation of the requirements under this section is cited as a result of compliance monitoring, the department shall provide the cardholder with written notice of the findings following the compliance monitoring visit.  
b. Unless otherwise specified by the department, the cardholder shall correct the violation within five calendar days of receipt of the notice citing the violation.

- c. The department shall verify whether the cardholder corrected the violation.
- d. The violation is not deemed corrected until the department provides written verification the corrective action is satisfactory.
- e. If the violation is not corrected within the required time, the department may revoke the registry identification card of the cardholder.

#### **19-24.1-10. Cardholders - Notification of change.**

- 1. Within ten calendar days of the change, in a manner prescribed by the department, a registered qualifying patient or registered designated caregiver shall notify the department of any of the following:
  - a. A change in the cardholder's name or address;
  - b. Knowledge of a change that would render the registered qualifying patient no longer eligible to participate in the medical marijuana program;
  - c. Knowledge of a change that results in the registered qualifying patient's health care provider no longer meeting the definition of the term "health care provider" as defined under section 19-24.1-01; or
  - d. Knowledge of a change that renders the registered qualifying patient's registered designated caregiver no longer eligible to participate in the medical marijuana program.
- 2. If a registered qualifying patient seeks to change the patient's designated caregiver, the registered qualifying patient shall notify the department in writing of this change.
- 3. If a cardholder loses the cardholder's registry identification card, the cardholder shall notify the department in writing within twenty-four hours of becoming aware of the loss.
- 4. If a registered qualifying patient is unable to make a notification required under this section due to age or medical condition, that patient's registered designated caregiver or the individual responsible for making medical decisions for that patient shall provide the notification.
- 5. If the department receives notification of an item listed in this section and the nature of the item reported does not affect a cardholder's eligibility, the department shall issue the cardholder a new registry identification card with a new random ten-digit alphanumeric identification number within twenty calendar days of approving the updated information and the cardholder shall pay a fee, not to exceed twenty-five dollars. If a cardholder notifying the department is a registered qualifying patient who has a registered designated caregiver, the department shall issue the patient's registered designated caregiver a new registry identification card within twenty calendar days of approving the updated information.
- 6. If the department receives notification of an item listed in this section and the nature of the item reported makes the cardholder ineligible, the cardholder's registry identification card becomes void immediately upon notification of the department and the registered cardholder shall dispose of any usable

marijuana in the cardholder's possession within fifteen calendar days, in accordance with rules adopted under this chapter.

7. A registered qualifying patient's certifying health care provider shall notify the department in writing if the health care provider's registered qualifying patient no longer has a debilitating medical condition or if the health care provider no longer believes the patient will receive therapeutic or palliative benefit from the medical use of marijuana. The qualifying patient's registry identification card becomes void immediately upon the health care provider's notification of the department and the registered qualifying patient shall dispose of any usable marijuana in the cardholder's possession within fifteen calendar days, in accordance with rules adopted under this chapter.

#### **19-24.1-11. Registry identification cards.**

1. The contents of a registry identification card must include:
  - a. The name of the cardholder;
  - b. A designation as to whether the cardholder is a qualifying patient, designated caregiver, or compassion center agent;
  - c. A designation as to whether a qualifying patient is a minor;
  - d. A designation as to whether a qualifying patient or a designated caregiver's qualifying patient is authorized to use the dried leaves or flowers of the plant of the genus cannabis;
  - e. The date of issuance and expiration date;
  - f. A random ten-digit alphanumeric identification number containing at least four numbers and at least four letters which is unique to the cardholder;
  - g. If the cardholder is a designated caregiver, the random identification number of the qualifying patient the designated caregiver is authorized to assist;
  - h. A photograph of the cardholder; and
  - i. The phone number or website address at which the card can be verified.
2. Except as otherwise provided in this section or rule adopted under this chapter, a registry identification card expiration date must be one year after the date of issuance.
3. If a health care provider states in the written certification that the qualifying patient would benefit from the medical use of marijuana until a specified date, less than one year, the registry identification card expires on that date.

#### **19-24.1-12. Compassion centers.**

1. A person may not process or produce or dispense usable marijuana or otherwise act as a compassion center in this state unless the person is registered as a compassion center.

2. Except as otherwise provided under this section, the department shall register no more than:
  - a. Two compassion centers with the sole purpose of operating as a manufacturing facility; and
  - b. Eight compassion centers with the sole purpose of operating as a dispensary.
3. The department shall establish an open application period for the submission of compassion center applications. At the completion of the open application period, the department shall review each complete application using a competitive process established in accordance with rules adopted under this chapter and shall determine which applicants to register as compassion centers.
4. The department may register additional compassion centers if the department determines additional compassion centers are necessary to increase access to usable marijuana by registered qualifying patients and registered designated caregivers.
5. If the department revokes or does not renew a compassion center registration certificate, the department may establish an open application period for the submission of compassion center applications.
6. The department of commerce may not certify a compassion center as a primary sector business.

#### **19-24.1-13. Compassion centers - Authority.**

1. The activities of a manufacturing facility are limited to producing and processing and to related activities, including acquiring, possessing, storing, transferring, and transporting marijuana and usable marijuana, for the sole purpose of selling usable marijuana to a dispensary.
2. The activities of a dispensary are limited to purchasing usable marijuana from a manufacturing facility, and related activities, including storing, delivering, transferring, and transporting usable marijuana, for the sole purpose of dispensing usable marijuana to a registered qualifying patient, directly or through the registered qualifying patient's registered designated caregiver. The activities of a dispensary include providing educational material and selling usable marijuana related supplies to a registered qualifying patient or a registered designated caregiver.

#### **19-24.1-14. Compassion centers - Application.**

1. The department shall establish forms for an application to be registered as a compassion center. For a compassion center registration application to be complete and eligible for review, the applicant shall submit to the department all of the following:
  - a. A nonrefundable application fee, not to exceed five thousand dollars, made payable to the "North Dakota State Department of Health, Medical Marijuana Program".

- b. The legal name, articles of incorporation or articles of organization, and bylaws or operating agreement of the proposed compassion center applicant.
- c. Evidence of the proposed compassion center applicant's registration with the secretary of state and certificate of good standing.
- d. The physical address of the proposed location of the proposed compassion center and:
  - (1) Evidence of approval from local officials as to the proposed compassion center applicant's compliance with local zoning laws for the physical address to be used by the proposed compassion center; and
  - (2) Evidence the physical address of the proposed compassion center is not located within one thousand feet [604.80 meters] of a property line of a pre-existing public or private school.
- e. For a manufacturing facility applicant, a description of the enclosed, locked facility that would be used in the production and processing of marijuana, including steps that will be taken to ensure the production and processing is not visible from the street or other public areas.
- f. The name, address, and date of birth of each principal officer and board member, or of each member-manager, manager, or governor, of the proposed compassion center applicant and verification each officer and board member, or each member-manager, manager, or governor, has consented to a criminal history record check conducted under section 12-60-24.
- g. For each of the proposed compassion center applicant's principal officers and board members, or for each of the proposed compassion center applicant's member-managers, managers, or governors, a description of that individual's relevant experience, including training or professional licensing related to medicine, pharmaceuticals, natural treatments, botany, food science, food safety, production, processing, and the individual's experience running a business entity.
- h. A description of proposed security and safety measures, which demonstrate compliance with the security and safety requirements under section 19-24.1-25.
  - i. An example of the design and security features of usable marijuana containers which demonstrates compliance with section 19-24.1-21.
  - j. A complete operations manual, which demonstrates compliance with section 19-24.1-27.
  - k. A description of the plans for making usable marijuana available on an affordable basis to registered qualifying patients with limited financial resources.

- I. A list of all individuals and business entities having direct or indirect authority over the management or policies of the proposed compassion center applicant.
    - m. A list of all individuals and business entities having an ownership interest in the proposed compassion center applicant, whether direct or indirect, and whether the interest is in profits, land, or building, including owners of any business entity that owns all or part of the land or building.
    - n. The identity of any creditor holding a security interest in the proposed compassion center premises.
  2. The department is not required to review an application submitted under this section unless the department determines the application is complete. The criteria considered by the department in reviewing an application must include:
    - a. The suitability of the proposed compassion center location, including compliance with any local zoning laws, and the geographic convenience to access compassion centers for registered qualifying patients and registered designated caregivers from throughout the state;
    - b. The character and relevant experience of the principal officers and board members, or of the member-managers, managers, or governors, including training or professional licensing and business experience;
    - c. The applicant's plan for operations and services, including staffing and training plans, whether the applicant has sufficient capital to operate, and the applicant's ability to provide an adequate supply of usable marijuana to registered qualifying patients and registered designated caregivers;
    - d. The sufficiency of the applicant's plans for recordkeeping;
    - e. The sufficiency of the applicant's plans for safety, security, and the prevention of diversion, including the proposed location and security devices employed;
    - f. The applicant's plan for making usable marijuana available on an affordable basis to registered qualifying patients with limited financial resources;
    - g. The applicant's plan for safe and accurate packaging and labeling of usable marijuana; and
    - h. The applicant's plans for testing usable marijuana and marijuana.
  3. Following completion of the review under subsection 2, the department shall select the applicants eligible for registration under section 19-24.1-15.

#### **19-24.1-15. Compassion centers - Registration.**

1. Upon receipt of notification by the department a compassion center application is eligible for registration, the applicant shall submit all of the following additional items to the department to qualify for registration:
  - a. A certification fee, made payable to the "North Dakota State Department of Health, Medical Marijuana Program", in the amount of ninety thousand

dollars for a dispensary and one hundred ten thousand dollars for a manufacturing facility.

- b. A financial assurance or security bond to ensure the protection of the public health and safety and the environment in the event of abandonment, default, or other inability or unwillingness to meet the requirements of this chapter.
  - c. The legal name, articles of incorporation or articles of organization, and bylaws or operating agreement, of the proposed compassion center applicant.
  - d. The physical address of the proposed compassion center; confirmation the information in the application regarding the physical location of the proposed compassion center has not changed, and if the information has changed the department shall determine whether the new information meets the requirements of this chapter; and a current certificate of occupancy, or equivalent document, to demonstrate compliance with the provisions of state and local fire code for the physical address of the proposed compassion center. It is not necessary for an applicant to resubmit any information provided in the initial application unless there has been a change in that information.
  - e. An update to previously submitted information, including information about compassion center agents and compliance with section 19-24.1-18.
2. If an applicant complies with subsection 1, the department shall issue the applicant a registration certificate.

#### **19-24.1-16. Compassion centers - Renewal.**

1. A compassion center registration certificate expires two years after issuance. A compassion center may submit a renewal application at any time beginning ninety calendar days before the expiration of the registration certificate. A compassion center shall submit a renewal application a minimum of sixty calendar days before the expiration of the registration certificate to avoid suspension of the certificate.
2. The department shall approve a compassion center's renewal application within sixty calendar days of submission, if the following conditions are satisfied:

  - a. The compassion center submits a renewal fee, in the amount of ninety thousand dollars for a dispensary and one hundred ten thousand dollars for a manufacturing facility, which the department shall refund if the department rejects the renewal application;
  - b. The compassion center submits a complete renewal application;
  - c. The department has at no time suspended the compassion center's registration for violation of this chapter;
  - d. Inspections conducted under this chapter do not raise any serious concerns about the continued operation of the compassion center; and

- e. The compassion center continues to meet all the requirements for the operation of a compassion center as set forth in this chapter and rules adopted under this chapter.
3. If a compassion center does not meet the requirements for renewal, the department may not issue a registration certificate and the department shall provide the compassion center with written notice of the determination. If a compassion center's certificate is not renewed, the compassion center shall dispose all marijuana and usable marijuana in accordance with rules adopted under this chapter.

**19-24.1-17. Compassion centers - Registration certificates nontransferable - Notification of changes.**

1. A registration certificate authorizing operation of a compassion center may not be transferred to another person. Unless a compassion center applies for and receives an amended registration certificate authorizing operation of a compassion center, the registration certificate is void if there is a change in ownership of the compassion center, there is a change in the authorized physical location of the compassion center, or if the compassion center discontinues operation.
2. A compassion center shall provide the department a written notice of any change described under this section at least sixty calendar days before the proposed effective date of the change. The department may waive all or part of the required advance notice to address emergent or emergency situations.

**19-24.1-18. Compassion centers - Agents - Registry identification cards.**

1. Upon issuance of a compassion center registry certificate, the department shall issue a registry identification card to each qualified compassion center agent associated with the compassion center.
2. To qualify to be issued a registry identification card, each compassion center agent must be at least twenty-one years of age and shall submit all of the following registry identification card application material to the department:
  - a. A photographic copy of the agent's department-approved identification. The agent shall make the identification available for inspection and verification by the department.
  - b. A recent two-by-two inch [5.08-by-5.08 centimeter] photograph of the agent.
  - c. A written and signed statement from an officer or executive staff member of the compassion center stating the applicant is associated with the compassion center and the capacity of the association.
  - d. The name, address, and telephone number of the agent.
  - e. The agent's social security number.
  - f. The name, address, and telephone number of the compassion center with which the agent is associated.
  - g. The agent's signature and the date.



9. A compassion center shall notify the department in writing within two calendar days of the date a compassion center agent ceases to work for or be associated with the compassion center. Upon receipt of the notification, that individual's registry identification card becomes void immediately.
10. The registry identification card of a compassion center agent expires one year after issuance or upon the termination of the compassion center's registration certificate, whichever occurs first. To prevent interruption of possession of a valid registry identification card, a compassion center agent shall renew a registry identification card by submitting a complete renewal application no less than forty-five calendar days before the expiration date of the existing registry identification card.

#### **19-24.1-19. Cardholders - Compassion centers - Revocation.**

1. The department may suspend or revoke a cardholder's registry identification card or a compassion center's registration certificate for a material misstatement by an applicant in an application or renewal.
2. The department may suspend or revoke a registry identification card or registration certificate for a violation of this chapter or rules adopted under this chapter.
3. If a compassion center agent or a compassion center sells or otherwise transfers marijuana or usable marijuana to a person not authorized to possess marijuana or usable marijuana under this chapter, the department shall revoke the cardholder's registry identification card or the compassion center's registration certificate, or both. If the department revokes a cardholder's registry identification card under this subsection, the cardholder is disqualified from further participation under this chapter.
4. The department shall provide written notice of suspension or revocation of a registry identification card or registration certificate.
  - a. A suspension may not be for a period longer than six months.
  - b. A manufacturing facility may continue to produce and process and to possess marijuana and usable marijuana during a suspension, but may not transfer or sell usable marijuana.
  - c. A dispensary may continue to possess usable marijuana during a suspension, but may not purchase, dispense, or transfer usable marijuana.
  - d. The cardholder or the compassion center may appeal a denial or revocation of a registry identification card or registry certificate to the district court of Burleigh County for hearing. The court may authorize the cardholder or compassion center to appear by reliable electronic means.

#### **19-24.1-20. Cardholders - Compassion centers - Violations - Penalties.**

1. A cardholder or compassion center that fails to provide a notice as required under this chapter shall pay to the department a fee in an amount established by the department, not to exceed one hundred fifty dollars.
2. In addition to any other penalty applicable in law, a manufacturing facility or a manufacturing facility agent is guilty of a class B felony for intentionally selling

or otherwise transferring marijuana or usable marijuana in any form, to a person other than a dispensary, or for internationally selling or otherwise transferring marijuana in any form other than usable marijuana, to a dispensary. A person convicted under this subsection may not continue to be affiliated with a compassion center and is disqualified from further participation under this chapter.

3. In addition to any other penalty applicable in law, a dispensary or a dispensary agent is guilty of a class B felony for intentionally selling or otherwise transferring usable marijuana, to a person other than a registered qualifying patient or a registered designated caregiver, to a registered qualifying patient who is a minor, or in a form not allowed under this chapter. A person convicted under this subsection may not continue to be affiliated with a compassion center and is disqualified from further participation under this chapter.
4. In addition to any other penalty applicable in law, a dispensary or a dispensary agent is guilty of a class B felony for intentionally selling or otherwise transferring usable marijuana, in a form other than pediatric medical marijuana, to a registered designated caregiver, for use by a registered qualifying patient who is a minor. A person convicted under this subsection may not continue to be affiliated with a compassion center and is disqualified from further participation under this chapter.
5. A compassion center or compassion center agent that knowingly submits false records or documentation required by the department to certify a compassion center under this chapter is guilty of a class C felony. A person convicted under this subsection may not continue to be affiliated with a compassion center and is disqualified from further participation under this chapter.
6. In addition to any other penalty applicable in law, if a compassion center violates this chapter the department may fine the compassion center up to one thousand dollars for each violation.
7. In addition to any other penalty applicable in law, a registered qualifying patient who intentionally sells or otherwise transfers usable marijuana, to another person, is guilty of a class B felony. An individual convicted under this subsection is disqualified from further participation under this chapter.
8. In addition to any other penalty applicable in law, a registered designated caregiver who intentionally sells or otherwise transfers usable marijuana, to a person other than a registered qualifying patient to which the caregiver is associated with registration, is guilty of a class B felony. An individual convicted under this subsection is disqualified from further participation under this chapter.
9. An individual who knowingly submits false records or documentation required by the department to receive a registry identification card under this chapter is guilty of a class A misdemeanor. An individual convicted under this subsection may not continue to be affiliated with a compassion center and is disqualified from further participation under this chapter.
10. A health care provider who holds a financial interest in a compassion center, may not knowingly refer a patient to a compassion center or to a registered designated caregiver, advertise in a compassion center, or issue a written

certification. A health care provider who violates this subsection must be fined up to one thousand dollars.

#### **19-24.1-21. Compassion centers - Dispensing.**

1. A compassion center shall comply with the dispensing requirements of this section.
2. Design and security features of usable marijuana containers must be in accordance with rules adopted under this chapter.
3. A manufacturing facility or agent of the manufacturing facility may not dispense marijuana or usable marijuana, except the manufacturing facility or agent may sell usable marijuana to a dispensary.
4. A dispensary or agent of the dispensary may not dispense usable marijuana unless the dispensary first uses the verification system to confirm the registered qualifying patient or registered designated caregiver identification card is valid. A dispensary or agent of the dispensary:
  - a. May not dispense usable marijuana to a person other than a registered qualifying patient or a registered qualifying patient's registered designated caregiver. If a registered qualifying patient is a minor:
    - (1) The dispensary or agent of the dispensary may not dispense usable marijuana to a minor; and
    - (2) The usable marijuana dispensed to the minor's designated caregiver must be in the form of pediatric medical marijuana.
  - b. May not dispense to a registered qualifying patient or registered designated caregiver more than the allowable amount of usable marijuana and may not dispense an amount if it is known that amount would cause the recipient to purchase or possess more usable marijuana than is permitted under this chapter.
  - c. May not dispense to a registered qualifying patient or registered designated caregiver the dried leaves or flowers of the plant of the genus cannabis in a combustible delivery form unless the registry identification card and verification system authorize this form of usable marijuana.

#### **19-24.1-22. Compassion centers - Inspections.**

1. A compassion center is subject to random inspection by the department. During an inspection, the department may review the compassion center's records, including the compassion center's financial and dispensing records, which may track transactions according to registered qualifying patient and registered designated caregiver registry identification numbers.
2. The department shall conduct inspections of compassion centers to ensure compliance with this chapter. The department shall conduct inspections of manufacturing facilities for the presence of contaminants. The department shall select a certified laboratory to conduct random quality sampling testing, in accordance with rules adopted under this chapter. A compassion center shall pay the cost of all random quality sampling testing.

**19-24.1-23. Compassion centers - Pesticide testing.**

A manufacturing facility shall test marijuana at a manufacturing facility for the presence of pesticides. If a marijuana pesticide test or a random quality sampling test under section 19-24.1-22 indicates the presence of a pesticide, the manufacturing facility shall report the test result immediately to the department and to the agriculture commissioner. Upon the order of the department or agriculture commissioner, the manufacturing facility immediately shall destroy all affected or contaminated marijuana and usable marijuana inventory in accordance with rules adopted under this chapter, and shall certify to the department and to the agriculture commissioner that all affected or contaminated inventory has been destroyed.

**19-24.1-24. Compassion centers - Cannabis plants.**

The health council shall adopt rules establishing the maximum amount of plants of the genus cannabis and the amount of marijuana and usable marijuana a compassion center may possess. Except as otherwise provided under this section, the rules may not allow a manufacturing facility to possess more than one thousand plants, regardless of the stage of growth, and may not allow a dispensary to possess more than three thousand five hundred ounces [99.22 kilograms] of usable marijuana at any time, regardless of formulation. The rules may allow a manufacturing facility to possess no more than an additional fifty plants for the exclusive purpose of department-authorized research and development related to production and processing.

**19-24.1-25. Compassion centers - Security and safety.**

1. In compliance with rules adopted under this chapter, a compassion center shall implement appropriate security and safety measures to deter and prevent the unauthorized entrance to areas containing marijuana and containing usable marijuana and to prevent the theft of marijuana and usable marijuana.
2. A compassion center shall limit to authorized personnel entry to an area in which production or producing takes place or in which marijuana or usable marijuana is held.
3. A compassion center must have a fully operational security alarm system at the authorized physical address which includes an electrical support backup system for the alarm system to provide suitable protection against theft and diversion.
4. A compassion center shall maintain documentation in an auditable form for:
  - a. All maintenance inspections and tests conducted under this section, and any servicing, modification, or upgrade performed on the security alarm system;
  - b. An alarm activation or other event that requires response by public safety personnel; and
  - c. Any breach of security.

**19-24.1-26. Compassion centers - Inventory control.**

1. A compassion center shall comply with the inventory control requirements provided under this section and rules adopted under this chapter.
  - a. A manufacturing facility shall:
    - (1) Employ a bar coding inventory control system to track batch, strain, and amounts of marijuana and usable marijuana in inventory and to track amounts of usable marijuana sold to dispensaries; and
    - (2) Host a secure computer interface to transfer inventory amounts and dispensary purchase information to the department.
2. A compassion center shall store the compassion center's marijuana and usable marijuana in an enclosed locked facility with adequate security, in accordance with rules adopted under this chapter.
3. A compassion center shall conduct inventories of marijuana and usable marijuana at the authorized location at the frequency and in the manner provided by rules adopted under this chapter. If an inventory results in the identification of a discrepancy, the compassion center shall notify the department and appropriate law enforcement authorities immediately. A compassion center shall document each inventory conducted by the compassion center.

**19-24.1-27. Compassion centers - Operating manual - Training.**

1. A compassion center shall maintain a current copy of the compassion center's operating manual that meets the requirements of rules adopted under this chapter.
2. A compassion center shall develop, implement, and maintain on the premises an onsite training curriculum or shall enter contractual relationships with outside resources capable of meeting compassion center agent training needs. A compassion center shall ensure each compassion center agent receives training that includes:
  - a. Education regarding professional conduct, ethics, and state and federal laws regarding patient confidentiality;
  - b. Informational developments in the field of medical use of marijuana;
  - c. All safety and security measures required under section 19-24.1-25;

- d. Specific procedural instructions for responding to an emergency, including robbery or violent accident; and
- e. The compassion center's operating manual and all requirements related to recordkeeping.

#### **19-24.1-28. Compassion centers - Bylaws and operating agreements.**

As part of a proposed compassion center's initial application, the applicant shall provide to the department a current copy of the applicant's bylaws or operating agreement. Upon receipt of a registration certificate, a compassion center shall maintain the bylaws or operating agreement in accordance with this chapter. In addition to any other requirements, the bylaws or operating agreement must include the ownership or management structure of the compassion center; the composition of the board of directors, board of governors, member-managers, or managers; and provisions relative to the disposition of revenues and earnings.

#### **19-24.1-29. Compassion centers - Retention of and access to records and reports.**

A compassion center shall keep detailed financial reports of proceeds and expenses. A compassion center shall maintain all inventory, sales, and financial records in accordance with generally accepted accounting principles. The compassion center shall maintain for a period of seven years all reports and records required under this section. A compassion center shall allow the department, or an audit firm contracted by the department, access at all times to all books and records kept by the compassion center.

#### **19-24.1-30. Compassion centers - Recordkeeping - Compassion center agents - Registry identification cards.**

1. Each compassion center shall maintain:
  - a. In compliance with rules adopted under this chapter, a personnel record for each compassion center agent for a period of at least three years following termination of the individual's affiliation with the compassion center. The personnel record must comply with minimum requirements set by rule adopted under this chapter.
  - b. A record of the source of funds that will be used to open or maintain the compassion center, including the name, address, and date of birth of any investor.
  - c. A record of each instance in which a current or prospective board member, member-manager, manager, or governor, who managed or served on the board of a business or not-for-profit entity and in the course of that service was convicted, fined, or censured or had a registration or license suspended or revoked in any administrative or judicial proceeding.
2. Each compassion center agent shall hold a valid registry identification card.

#### **19-24.1-31. Verification system.**

1. The department shall maintain a confidential list of cardholders and each cardholder's address, phone number, and registry identification number.

2. The department shall establish a secure verification system. The verification system must allow law enforcement personnel, health care providers, pharmacists, compassion centers, and compassion center agents twenty-four-hour access to enter a registry identification number to determine whether the number corresponds with a current valid registry identification card. The system may disclose:
  - a. Whether an identification card is valid;
  - b. The name of the cardholder;
  - c. Whether the cardholder is a registered qualifying patient, registered designated caregiver, or registered compassion center agent;
  - d. Whether a registered qualifying patient is a minor; and
  - e. The registry identification number of any affiliated registered qualifying patient, registered designated caregiver, or compassion center.

#### **19-24.1-32. Protections.**

Except as provided in sections 19-24.1-20 and 19-24.1-33:

1. A registered qualifying patient is not subject to arrest or prosecution or the denial of any right or privilege, including a civil penalty or disciplinary action by a court or occupational or professional regulating entity for the acquisition, use, or possession of usable marijuana or related supplies under this chapter.
2. A registered designated caregiver is not subject to arrest or prosecution or the denial of any right or privilege, including a civil penalty or disciplinary action by a court or occupational or professional regulating entity:
  - a. For assisting a registered qualifying patient with the acquisition, use, or possession of usable marijuana or related supplies under this chapter, if the registered designated caregiver is connected to the registered qualifying patient through the department's registration process.
  - b. For receiving compensation for costs associated with assisting a registered qualifying patient with the acquisition, use, or possession of usable marijuana or related supplies under this chapter, if the registered designated caregiver is connected to the registered qualifying patient through the department's registration process.
3. It is presumed a registered qualifying patient is engaged in, or a registered designated caregiver is assisting with, the acquisition, use, or possession of usable marijuana or related supplies in accordance with this chapter if the registered qualifying patient or registered designated caregiver is in possession of a valid registry identification card and is not in possession of usable marijuana in an amount that exceeds what is authorized under this chapter. This presumption may be rebutted by evidence the conduct related to acquisition, use, or possession of usable marijuana or related supplies was not for the purpose of treating or alleviating the registered qualifying patient's debilitating medical condition under this chapter.
4. A person is not subject to arrest or prosecution or the denial of any right or privilege, including a civil penalty or disciplinary action by a court or

occupational or professional regulating entity for being in the presence or vicinity of the medical use of marijuana authorized under this chapter.

5. A manufacturing facility is not subject to prosecution, search or inspection, or seizure, except by the department or a department designee, under this chapter for acting under this chapter to:
  - a. Produce or process or to conduct related activities for the sole purpose of selling usable marijuana to a dispensary; or
  - b. Transfer, transport, or deliver marijuana or usable marijuana to and from a department designee or manufacturing facility in accordance with this chapter.
6. A dispensary is not subject to prosecution, search or inspection, or seizure, except by the department or a department designee, under this chapter for acting under this chapter to:
  - a. Purchase usable marijuana from a manufacturing facility and conducting related activities for the sole purpose of dispensing usable marijuana, selling related supplies, and providing educational materials to registered qualifying patients and designated caregivers; or
  - b. Transfer usable marijuana to and from a department designee or related marijuana facility in accordance with this chapter.
7. A registered compassion center agent is not subject to arrest or prosecution or the denial of any right or privilege, including a civil penalty or disciplinary action by a court or occupational or professional regulating entity, for working or volunteering for a compassion center if the action performed by the compassion center agent on behalf of the compassion center is authorized under this chapter.
8. The sale and possession of marijuana paraphernalia by a dispensary is lawful if in accordance with this chapter.
9. The medical use of marijuana by a registered cardholder or the producing and processing and the dispensing of usable marijuana by a compassion center is lawful if in accordance with this chapter.
10. A health care provider is not subject to arrest or prosecution or the denial of any right or privilege, including a civil penalty or disciplinary action by a court or occupational or professional regulating entity, solely for providing a written certification or for otherwise stating in the health care provider's professional opinion a patient is likely to receive therapeutic or palliative benefit from the medical use of usable marijuana to treat or alleviate the patient's debilitating medical condition or for refusing to provide written certification or a statement. This chapter does not release a health care provider from the duty to exercise a professional standard of care for evaluating or treating a patient's medical condition.
11. A cardholder or registered compassion center is not subject to arrest or prosecution for use of drug paraphernalia or possession with intent to use drug paraphernalia in a manner consistent with this chapter.

12. A person in possession of medical marijuana waste in the course of transporting or disposing of the waste under this chapter and rules adopted under this chapter may not be subject to arrest or prosecution for that possession or transportation.
13. A person in possession of marijuana or medical marijuana in the course of performing laboratory tests as provided under this chapter and rules adopted under this chapter may not be subject to arrest or prosecution for that possession or testing.

#### **19-24.1-33. Limitations.**

This chapter does not authorize a person to engage in, and does not prevent the imposition of any civil liability or criminal liability or other penalties for engaging in the following conduct:

1. Undertaking an activity under the influence of marijuana if doing so would constitute negligence or professional malpractice.
2. Possessing or consuming usable marijuana:
  - a. On a school bus or school van that is used for school purposes;
  - b. On the grounds of any public or private school;
  - c. At any location while a public or private school sanctioned event is occurring at that location;
  - d. On the grounds of a correctional facility; or
  - e. On the grounds of a child care facility or licensed home day care, unless authorized under rules adopted by the department of human services.
3. Undertaking any activity prohibited by section 23-12-09, 23-12-10, 23-12-10.2, 23-12-10.4, 23-12-10.5, or 23-12-11.
4. Using a combustible delivery form of usable marijuana or vaporizing usable marijuana under this chapter if the smoke or vapor would be inhaled by a minor who is not the registered qualifying patient for whom the usable marijuana is intended.
5. Operating, navigating, or being in actual physical control of a motor vehicle, aircraft, train, or motorboat, while under the influence of marijuana. However, a registered qualifying patient may not be considered to be under the influence of marijuana solely because of the presence of metabolites or components of marijuana that appear in insufficient concentration to cause impairment.

#### **19-24.1-34. Acts not prohibited - Acts not required.**

1. This chapter does not require:
  - a. A government medical assistance program or private insurer to reimburse a person for costs associated with the medical use of marijuana;

- b. A person in lawful possession of property to allow a guest, client, customer, or other visitor to possess or consume usable marijuana on or in that property;
  - c. A landlord to allow production or processing on rental property; or
  - d. A health care provider to provide a written certification or otherwise recommend marijuana to a patient.
2. This chapter does not prohibit an employer from disciplining an employee for possessing or consuming usable marijuana in the workplace or for working while under the influence of marijuana.

#### **19-24.1-35. Facility restrictions.**

1. A basic care facility, nursing facility, assisted living facility, adult day care facility, or adult foster care home licensed in the state may adopt reasonable restrictions on the medical use of marijuana by residents or individuals receiving inpatient services, including:
  - a. The facility will not store or maintain the registered qualifying patient's supply of usable marijuana.
  - b. The facility, caregivers, or hospice agencies serving the facility's residents are not responsible for providing the usable marijuana for registered qualifying patients or assisting with the medical use of marijuana.
  - c. Usable marijuana can be consumed by a method other than vaporizing or combustion.
  - d. Consumption of usable marijuana is limited to a place specified by the facility.
2. A facility listed in subsection 1 may not unreasonably limit a registered qualifying patient's medical use of marijuana as authorized under this chapter unless failing to do so would cause the facility to lose a monetary or licensing-related benefit under federal law or regulations.

#### **19-24.1-36. Health council - Rules.**

1. The health council shall adopt rules as necessary for the implementation and administration of this chapter, including transportation and storage of marijuana and usable marijuana, advertising, packaging and labeling, standards for testing facilities, inventory management, and accurate recordkeeping.
2. The health council may adopt rules regarding the operation and governance of additional categories of registered medical marijuana establishments.
3. The health council shall adopt rules to establish requirements for reporting incidents of individuals not authorized to possess marijuana or usable marijuana under this chapter and who are found in possession of marijuana or usable marijuana. The rules must identify professionals required to report, the information the reporter is required to report, and actions the reporter shall take to secure the marijuana or usable marijuana.

4. The health council shall adopt rules to establish requirements for law enforcement officials and health care professionals to report to the department incidents involving overdose or adverse reaction related to the use of usable marijuana.

#### **19-24.1-37. Confidentiality.**

1. Data in a registration application or renewal and supporting data submitted by a qualifying patient, designated caregiver, compassion center, proposed compassion center, or compassion center agent, including data on designated caregivers and health care providers, is confidential.
2. Data kept or maintained by the department may be disclosed for:
  - a. The verification of registration certificates and registry identification cards under this chapter;
  - b. Submission of the annual report required by this chapter;
  - c. Submission to the North Dakota prescription drug monitoring program;
  - d. Notification of state or local law enforcement of apparent criminal violation of this chapter;
  - e. Notification of state and local law enforcement about falsified or fraudulent information submitted for purposes of obtaining or renewing a registry identification card; or
  - f. Notification of the North Dakota board of medicine or North Dakota board of nursing if there is a reason to believe a health care provider provided a written certification and the department has reason to believe the health care provider otherwise violated this chapter.
3. Upon a cardholder's written request, the department may confirm the cardholder's status as a registered qualifying patient or a registered designated caregiver to a third party, such as a landlord, school, medical professional, or court.
4. Data submitted to a local government to demonstrate compliance with any security requirements required by local zoning ordinances or regulations is confidential.

#### **19-24.1-38. Advisory board.**

1. The governor shall appoint six members to serve on an advisory board that:
  - a. Shall advise the department in implementation of the medical marijuana program.
  - b. May receive reports from the department on the status and activities of the medical marijuana program.
  - c. May provide recommendations to the department and the legislative management on the medical marijuana program.

2. The state health officer shall serve as an ex officio voting member and as chairman of the advisory board.

#### **19-24.1-39. Report to legislative management.**

Annually, the department shall submit to the legislative management a report that does not disclose any identifying information about registered cardholders, compassion centers, or health care providers, but contains the following information:

1. The number of registry identification card applications and renewals;
2. The number of registered qualifying patients and registered designated caregivers;
3. The nature of the debilitating medical conditions of the registered qualifying patients;
4. The number of registry identification cards revoked;
5. The number of health care providers providing written certifications for qualifying patients;
6. The number of compassionate care centers; and
7. Any expenses incurred and revenues generated by the department from the medical marijuana program.

#### **19-24.1-40. Medical marijuana fund - Continuing appropriation.**

The medical marijuana fund is established in the state treasury. The department shall deposit in the fund all fees collected under this chapter. The department shall administer the fund. Moneys in the fund are appropriated to the department on a continuing basis for use in administering this chapter.

**SECTION 2. AMENDMENT.** Section 54-60-03 of the North Dakota Century Code is amended and reenacted as follows:

#### **54-60-03. Commissioner of commerce - Duties.**

With the advice and counsel of the North Dakota development foundation, the governor shall appoint a commissioner to supervise, control, and administer the department. The commissioner serves at the pleasure of the governor and receives a salary set by the governor within the limits of legislative appropriations. The commissioner:

1. Shall file an oath of office in the usual form before commencing to perform the duties of the commissioner;
2. Shall serve as chairman of the cabinet;
3. Shall appoint personnel as may be determined necessary to carry out the duties of the department;
4. Shall manage the operations of the department and oversee each of the divisions;

5. Shall assume central responsibilities to develop, implement, and coordinate a working network of commerce service providers;
6. Shall coordinate the department's services with commerce-related services of other state agencies;
7. Shall advise and cooperate with departments and agencies of the federal government and of other states; private businesses, agricultural organizations, and associations; research institutions; and with any individual or other private or public entity;
8. May enter contracts upon terms and conditions as determined by the commissioner to be reasonable and to effectuate the purposes of this chapter;
9. Shall report between the first and tenth legislative days of each regular legislative session to a standing committee of each house of the legislative assembly as determined by the legislative management and shall report annually to the foundation:
  - a. On the department's goals and objectives since the last report;
  - b. On the department's goals and objectives for the period until the next report;
  - c. On the department's long-term goals and objectives;
  - d. On the department's activities and measurable results occurring since the last report; and
  - e. On commerce benchmarks, including the average annual wage in the state, the gross state product exclusive of agriculture, and the number of primary sector jobs in the state;
10. May not certify as a primary sector business a compassion center registered under chapter 19-24.1;
11. Shall adopt rules necessary to implement this chapter; and
- 11.12. May take any actions necessary and proper to implement this chapter.

<sup>79</sup> **SECTION 3. AMENDMENT.** Paragraph 3 of subdivision a of subsection 15 of section 57-02-08 of the North Dakota Century Code is amended and reenacted as follows:

(3) Any structure or improvement used primarily in connection with a retail or wholesale business other than farming, any structure or improvement located on platted land within the corporate limits of a city, any structure or improvement used by a manufacturing facility as defined in section 19-24.1-01, or any structure or improvement located on railroad operating property subject to assessment under chapter 57-05 is not exempt under this subsection. For purposes of this paragraph, "business other than farming" includes processing to produce a value-added physical or chemical change in an agricultural

<sup>79</sup> Section 57-02-08 was also amended by section 4 of Senate Bill No. 2344, chapter 171.

commodity beyond the ordinary handling of that commodity by a farmer prior to sale.

<sup>80</sup> **SECTION 4. AMENDMENT.** Paragraph 2 of subdivision b of subsection 15 of section 57-02-08 of the North Dakota Century Code is amended and reenacted as follows:

- (2) "Farmer" means an individual who normally devotes the major portion of time to the activities of producing products of the soil, with the exception of marijuana grown under chapter 19-24.1; poultry, livestock, or dairy farming in such products' unmanufactured state and has received annual net income from farming activities which is fifty percent or more of annual net income, including net income of a spouse if married, during any of the three preceding calendar years. For purposes of this paragraph, "farmer" includes a:
- (a) "Beginning farmer", which means an individual who has begun occupancy and operation of a farm within the three preceding calendar years; who normally devotes the major portion of time to the activities of producing products of the soil, poultry, livestock, or dairy farming in such products' unmanufactured state; and who does not have a history of farm income from farm operation for each of the three preceding calendar years.
  - (b) "Retired farmer", which means an individual who is retired because of illness or age and who at the time of retirement owned and occupied as a farmer the residence in which the person lives and for which the exemption is claimed.
  - (c) "Surviving spouse of a farmer", which means the surviving spouse of an individual who is deceased, who at the time of death owned and occupied as a farmer the residence in which the surviving spouse lives and for which the exemption is claimed. The exemption under this subparagraph expires at the end of the fifth taxable year after the taxable year of death of an individual who at the time of death was an active farmer. The exemption under this subparagraph applies for as long as the residence is continuously occupied by the surviving spouse of an individual who at the time of death was a retired farmer.

**SECTION 5. STATE DEPARTMENT OF HEALTH REPORT - MEDICAL MARIJUANA DEBILITATING MEDICAL CONDITIONS.** During the 2017-18 interim, the state department of health shall conduct a study of the feasibility and desirability of adding identified medical conditions or providing for an administrative process to add identified medical conditions to the definitions of "debilitating medical condition" under the medical marijuana program. The department shall include the findings and recommendations of this study, together with any legislation required to implement the recommendations, in the annual reports made to the legislative management under section 19-24.1-39.

**SECTION 6. REPEAL.** Chapter 19-24 of the North Dakota Century Code is repealed.

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<sup>80</sup> Section 57-02-08 was also amended by section 3 of Senate Bill No. 2344, chapter 171.

**SECTION 7. LEGISLATIVE INTENT - MEDICAL MARIJUANA PENALTIES.** It is the intent of the sixty-fifth legislative assembly that if future legislative assemblies amend criminal penalties relating to marijuana, the corresponding medical marijuana penalties also be amended in order to retain consistency.

**SECTION 8. EMERGENCY.** This Act is declared to be an emergency measure.

Approved April 17, 2017

Filed April 18, 2017