

2021 HOUSE HUMAN SERVICES

HB 1400

2021 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee Pioneer Room, State Capitol

HB 1400
1/26/2021

Relating to out-of-state medical marijuana cardholders and to qualifications for medical marijuana debilitating medical conditions and dispensary inspections.

Chairman Weisz opened the hearing at 10:32 a.m.

Representatives	Attendance
Representative Robin Weisz	P
Representative Karen M. Rohr	P
Representative Mike Beltz	P
Representative Chuck Damschen	P
Representative Bill Devlin	P
Representative Gretchen Dobervich	P
Representative Clayton Fegley	P
Representative Dwight Kiefert	P
Representative Todd Porter	P
Representative Matthew Ruby	P
Representative Mary Schneider	P
Representative Kathy Skroch	P
Representative Bill Tveit	P
Representative Greg Westlind	P

Discussion Topics:

- Unannounced inspection
- Secret shopper program
- Program cost
- Product quality
- Qualifying condition
- Out-of-state reciprocity
- Program qualification

Rep. Marvin Nelson, District 9 (10:34) introduced the bill, gave and submitted testimony in favor #3240 & #3347

Gail Pederson, Board Certified Holistic Nurse (11:08) testified in favor and submitted testimony #3305

Alexa Johnson, Autism Medical Cannabis Support Group (11:15) testified in favor and submitted testimony #3318

Jodi Vetter, Patient (11:17) testified in favor

Chris Nolden, Patient (11:18) testified in favor

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Jason Wahl, Division of Medical Marijuana, ND Department of Health (11:20) testified in opposition and submitted testimony #3332

Additional written testimony: #3184

Chairman Weisz adjourned at 11:43 a.m.

Tamara Krause, Committee Clerk by Anna Fiest

HB1400 Medical Cannabis Amendments

Representative Marvin E. Nelson, District 9

House Human Services Committee, Representative Robin Weisz, Chairman

HB 1400 makes a few changes to the medical cannabis laws.

1. The change where all people have the option of submitting medical records to qualify for the program. Like VA patients can today.

It seems it is not only the VA where medical providers are not or do not feel free to make medical marijuana recommendations.

Has been a very common complaint that people cannot find a provider willing to work with them, or the provider is far away or, it is very expensive to have another relationship with another provider just to qualify for the program.

The number one complaint I have heard the last couple of years. It is improving but being able to qualify even when suffering from a qualifying condition has been difficult for many.

At the same time.

2. Practitioners would not be limited to the list. There are many rare conditions, and no list will ever contain all the conditions that might be helped by medical cannabis. Often there are few options for sufferers of very rare conditions.
3. Out of state visitors. I think of it as reciprocity but it doesn't depend on how the other state treats our residents. If a person is qualified in another state they can submit documentation for a two month temporary permit. May be renewed once. Don't visualize that as having to be consecutive. It's for tourism, or is someone moves here. Want to avoid the headline of a medical cannabis patient from another state being arrested.
4. The unannounced inspection/secret shopper program.

HB1400 Medical Cannabis Amendments

Representative Marvin E. Nelson, District 9

House Human Services Committee, Representative Robin Weisz, Chairman

Quality, safety, this was very concerning to get so much feedback from medical cannabis users that the quality of the medical cannabis was poor, even dangerous.

Seeds seem to be a common problem. This is concerning because production should not be seeing seeds. These are cloned female plants. The object isn't seeds. Now I don't know why the plants produced seed. Could be pollen contamination. Could be genetic or stress induced hermaphroditism or it could be rodelization. Would be interesting to genetically test the seed to see if it is XY seed or XX. In any case when producing seed that lowers the production of cannabinoids and it would influence consumption.

There are also numerous complaints of bad trimming. That is leaving stems and leaves and such in with the buds.

And then complaints that there is bleeding of colors, people are concerned that dyes may be getting added.

Then the most concerning. Microbial growth like molds. People have complained buds look moldy, that they smell bad, that they taste bad and even that people get ill after consuming.

Following are some pictures. Often quality problems are difficult to show with a picture. For instance something smelling moldy doesn't come through. Even mold itself is very difficult.

People complain to the Dept.

If there was an open market, quality is controlled by the market. Produce something people don't like and you are unable to sell. We have created a monopoly. There really is no place other than the illicit market for people to go. People don't want to do that. With a monopoly, quality becomes a regulatory function of government. So we need either to open up the market to competition, or we need to more aggressively regulate in order to assure safety and other quality aspects.



Trim taken from that lot.



Seeds from that lot



Seeds from another lot



Colors bleeding

House Bill 1400

Testimony by Gail Pederson, SPRN HN-BC

Thank you Mr Weisz and committee for allowing my testimony. I am Gail Pederson and introduced myself earlier in HB 1359.

I am speaking out for HB 1400 and the amendments to/addition of 19-24.1-03.1. Qualifying patients - Alternative and 19-24.1-09.1. Cardholders - Out-of-state.

19-24.1-03.1. Qualifying patients - Alternative.

It continues to be difficult for patients to find a provider to certify them. This would allow many more patients to take another step, when their usual provider does not certify. Whether you realize it or not, “the law has created doctor shopping”. Our patients usually know much more about cannabis than their provider. They are the team leader for their own health.

19-24.1-09.1. Cardholders - Out-of-state.

Out of state transfer of licenses to allow a person to purchase product in another state is a concern at the national level. Is your driver’s license not good in every state? North Dakota’s list of conditions is one of the best in the country (besides not including Opioid Use Disorder). There should be little concern about not allowing another state’s medical cannabis patient’s condition in our state.

Thank you Representative Nelson for putting this forward. I will stand for questions.

Unsatisfactory Products from North Dakota Dispensaries
Photos and comments collected from ND Medical Marijuana Program patients
-Patient Names Withheld for Fear of Retaliation from Dispensaries/Growers



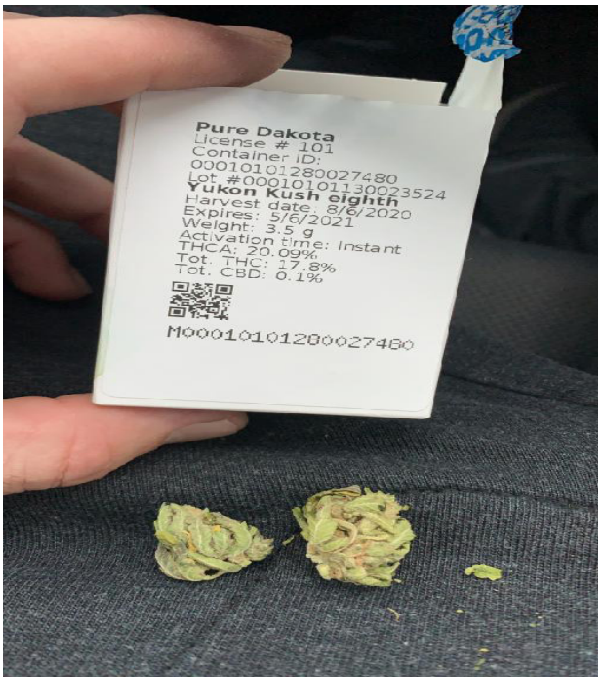
Purchased Nov. 19, 2020
Pure Dakota product
1/8 oz. Platte River Kush flower
Strive Life, Grand Forks
-full of stems
-no cannabis scent
-smelled of dead vegetation



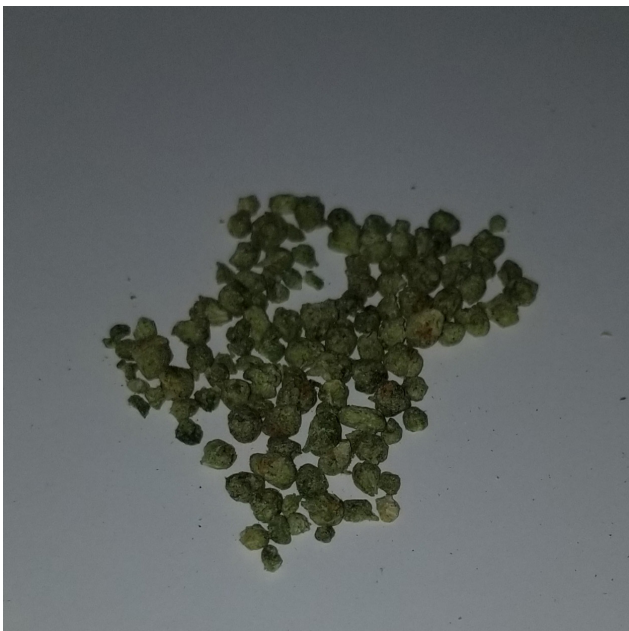
Purchased Jan. 12, 2021
Pure Dakota product
Granddaddy Purple Flower
Strive Life, Grand Forks
-seedy
-dry
-took an hour to dig seeds out



Purchased Apr. 21, 2020
Grassroots product
pre-rolls
Strive Life, Grand Forks
-all leaves



Purchased 1/2021
 Pure Dakota product
 Herbology, Minot
 Yukon Kush flower
 Flowers untrimmed
 -Desires way to see product prior to purchase



This is an example of the medication that you will get at any dispensary in the state. In the approximate 7g of flower I found 119 seeds with the bigger ones measuring 4-5mm in diameter. I would have found more if I had been ambitious enough to sift through it again. When there are seeds present it means that the plant has gone through changes that reduce the amount of cannabinoids it will produce. I question the validity of their lab results and wonder if they are cherry picking the test samples. At least I was fortunate enough to get big nuggets for once. That has been an ongoing problem from the start. Tiny nuggets grow less trichomes and have less cannabinoids. So if they take their sample from big nuggets and one of small biggest from the same plant they can have vastly different amounts of cannabinoids even if the plant is healthy. We should be able to see and smell what we are purchasing prior to buying it since there seems to be no recourse for patients. We're paying 3-4x street prices for medication that is mediocre.

I will send pictures of the before and after of all flower I buy because I'm tired of paying so much for so little, but it's the only thing that helps my conditions so I'm stuck.

Good morning Chairman Weisz and members of the Human Services Committee. My name is Jason Wahl, Director of the Division of Medical Marijuana within the North Dakota Department of Health (NDDoH). I am here to provide information on House Bill 1400 to allow individuals to submit medical records in lieu of completing a written certification and to issue temporary cards to a qualifying patient from another state. I will also provide information related to the fiscal note submitted by the NDDoH.

Last legislative session, a reasonable accommodation was added to state law to allow veterans receiving treatment from a federal veterans' affairs entity to submit a copy of their medical records. The bill would change the law to allow all individuals to submit medical records when applying to become registered. This may mean that a large number of individuals may submit medical records rather than seeing their health care provider, who would be the one to provide follow-up care to the patient to monitor the medical use of marijuana as a treatment. Follow-up care is one requirement of a bona fide provider-patient relationship defined in state law. The change in law would make it unclear when an individual last needed to be seen by a health care provider or if there was an expectation of follow-up care.

The change in the bill would result in the Division of Medical Marijuana obtaining a large amount of medical records. In discussing this bill with the Director of Risk Management in the Office of Management and Budget, the Director voiced concerns related to the problems and liability exposure of the state obtaining additional medical records.

Another area of the bill relates to the issuance of a temporary card to a qualifying patient from another state. The NDDoH would not have assurance that a qualifying patient from another state held a valid, active card. Individuals with a card from another state may have a medical condition that qualifies them in their state and would not qualify them in our state or they have received authorization for the card from a type of health care professional not authorized to complete a written certification form in our state. Thus, an

individual from North Dakota must meet different requirements to be eligible to purchase from a registered dispensary.

Issuing a temporary card could allow individuals from other states to obtain certain forms of marijuana their state specifically precludes them from obtaining. For example, the state of Minnesota does not authorize dried leaves or flowers under their medical marijuana program, but the proposed change in this bill would allow a Minnesota patient to buy dried leaves or flowers. Also, since our state would not have information regarding previously purchased amounts, this change would allow individuals from another state to consistently purchase in excess of allowable amounts set by their state.

A fiscal note was submitted by the NDDoH. To implement the two changes addressed in this testimony (medical records and temporary cards), an increase in expenditures of \$277,165 for the 2021-23 biennium was identified for paying the costs of two full-time equivalents (FTEs) and programming changes to the application system. The fiscal note identifies an increase in revenue of \$30,000 for the 2021-23 biennium.

This concludes my testimony. I am happy to answer any questions you may have.



The National Organization for the
Reform of Marijuana Laws

I wish to thank members of the House Human Services Committee for holding a hearing on this important matter and for considering my testimony.

My name is Carly Wolf and I am the State Policies Coordinator with The National Organization for the Reform of Marijuana Laws (NORML) – a Washington, DC based advocacy organization that opines in favor of evidence-based marijuana policy reforms.

I am providing testimony today in favor of the advancement of House Bill 1400, which provides doctors the discretion to recommend medical cannabis to any patient with a "condition a health care provider determines is appropriately treated by the medical use of marijuana," and allows qualifying out-of-state patients to access medical cannabis temporarily while they visit North Dakota.

NORML believes that, in the interest of promoting public health, the approved list of qualifying conditions must be expansive and must allow physicians the option to recommend cannabis therapy to any patient for whom they believe would benefit from its therapeutic use.

Doctors already possess this same discretion when it comes to the practice of recommending or prescribing other medications, many of which pose far greater risks to health than does marijuana (such as opioids). It is only fair that we allow medical professionals this same discretion for when it comes to authorizing medical cannabis therapy.

In short, a patient's treatment options should not be limited by government bureaucrats, but rather, it should be a decision that is made in confidence based upon the needs of the individual patients and the professional opinion of his or her physician.

Today, a majority of physicians endorse medical cannabis therapy.¹ This is because cannabinoids have been shown to safely and effectively treat a wide range of symptoms² and, in some cases, these compounds likely hold the potential to modulate the course of serious diseases. A recent literature review identifies over 140 controlled clinical trials evaluating cannabinoid therapy for a multitude of serious, chronic conditions — including multiple sclerosis, Tourette Syndrome, epilepsy, Crohn's disease, epilepsy, IBS, spinal cord injury, and others. Consequently, physicians ought to be provided wide latitude and discretion with regard to which patients they believe in their expert opinion will benefit from cannabis treatment. Legislators and regulators should not unduly interfere with the sanctity of the doctor-patient relationship or in any way impede physicians from providing what they believe to be the best course of treatment for their patients.

To date, the largest number of controlled clinical trials are specific to the use of cannabis to effectively mitigate chronic pain conditions, especially treatment-resistant neuropathy. A recent

¹ <https://www.webmd.com/pain-management/news/20140225/webmd-marijuana-survey-web#1>

² <https://norml.org/marijuana/library/recent-medical-marijuana-research/>

review of these scientific trials by the National Academy of Sciences, Medicine, and Engineering acknowledged that conclusive evidence exists to support the use of cannabis and cannabinoids “for the treatment of chronic pain in adults.”³ Multiple studies further show that patients with legal cannabis access often use it as a substitute for the use of more dangerous opioids. In fact, jurisdictions that regulate medical cannabis experience far lower rates of opioid-related mortality and overall prescription drug spending than those states that do not.⁴ Furthermore, longitudinal studies monitoring pain patients enrolled in state-specific cannabis access programs consistently report that these patients reduce or eliminate their use of opioids over time.⁵ As a result, no evidence-based medical cannabis program ought to place limitations with regard to the physicians-authorized use of cannabis as an analgesic agent.

Finally, NORML believes that patients visiting North Dakota from neighboring states with medical cannabis access should not lose this access while in North Dakota. These patients should not have to forgo their medicine while visiting the state, and North Dakota should provide reciprocity in these cases -- just as most states already do.

For these reasons, I urge members of the Committee to support HB 1400.

³ <https://www.nap.edu/catalog/24625/the-health-effects-of-cannabis-and-cannabinoids-the-current-state>

⁴ Find dozens of these studies here:
<https://norml.org/marijuana/fact-sheets/relationship-between-marijuana-and-opioids/>.

⁵ Ibid.

2021 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee Pioneer Room, State Capitol

HB 1400
2/8/2021

Relating to out-of-state medical marijuana cardholders and to qualifications for medical marijuana debilitating medical conditions and dispensary inspections.

Chairman Weisz opened the committee meeting at 5:20 p.m.

Representatives	Attendance
Representative Robin Weisz	P
Representative Karen M. Rohr	P
Representative Mike Beltz	P
Representative Chuck Damschen	P
Representative Bill Devlin	P
Representative Gretchen Dobervich	P
Representative Clayton Fegley	P
Representative Dwight Kiefert	P
Representative Todd Porter	P
Representative Matthew Ruby	P
Representative Mary Schneider	P
Representative Kathy Skroch	P
Representative Bill Tveit	P
Representative Greg Westlind	P

Discussion Topics:

- Committee Action

Rep. Todd Porter (5:21) made motion **Do No Pass**.

Rep. Bill Tveit (5:22) second.

Representatives	Vote
Representative Robin Weisz	Y
Representative Karen M. Rohr	Y
Representative Mike Beltz	Y
Representative Chuck Damschen	Y
Representative Bill Devlin	Y
Representative Gretchen Dobervich	N
Representative Clayton Fegley	Y
Representative Dwight Kiefert	Y
Representative Todd Porter	Y
Representative Matthew Ruby	Y
Representative Mary Schneider	N
Representative Kathy Skroch	Y
Representative Bill Tveit	Y

Representative Greg Westlind	Y
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Motion Carried Do Not Pass 12-2-0

Bill Carrier: Rep. Matthew Ruby

Chairman Weisz adjourned at 5:22 p.m.

Tamara Krause, Committee Clerk

REPORT OF STANDING COMMITTEE

HB 1400: Human Services Committee (Rep. Weisz, Chairman) recommends **DO NOT PASS** (12 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HB 1400 was placed on the Eleventh order on the calendar.