

ONE HUNDRED FIFTH LEGISLATURE - FIRST SESSION - 2017
COMMITTEE STATEMENT (CORRECTED)
LB622

Hearing Date: Wednesday March 15, 2017
Committee On: Judiciary
Introducer: Wishart
One Liner: Adopt the Medical Cannabis Act

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:

Aye:	7	Senators Baker, Chambers, Ebke, Hansen, Krist, Morfeld, Pansing Brooks
Nay:	1	Senator Halloran
Absent:		
Present Not Voting:		

Verbal Testimony:

Proponents:

Senator Anna Wishart
Rachel Knox
Alan Worth
Vincent Litwinowicz
Benjamin Marksmeier
Paul Stanford
Dick Clark
Timothy Mark Locklear
Ilga Rauchut
Lia McDowell-Post
Frank Shoemaker
Elizabeth Shields
Shannon Coryell
Amy Swearer
Sarah Dimon
Brenda Potratz
Amy Miller
Brenda Kenkel
Marc Bowman
David Swarts
Bill Hawkins

Representing:

Introducer
self
self
self
self
THCF Medical Clinics
self
self
self
self
Nebraska Families 4 Medical Cannabis
self
self
self
self
ACLU Nebraska
Nebraska Families for Medical Marijuana
self
Nebraska Families 4 Medical Marijuana
self

Opponents:

Brad Rice
David Lopez

Terry Wagner
Tom Williams

Representing:

Nebraska State Patrol
Attorney General's Office & County Attorneys
Association
Nebraska Sheriffs' Association
Department of Health and Human Services

Neutral:

Representing:

Summary of purpose and/or changes:

LB 622 would adopt the Medical Cannabis Act in Nebraska legalizing the consumption of cannabis for limited medical purposes.

Section 1- Cites the name of the Act.

Section 2- Definitions for the Act to be found in Sections 3-17.

Section 3- Defines compassion center and dispensary.

Section 4- Defines Department.

Section 5- Defines disqualifying felony offense.

Section 6- Defines health care practitioner.

Section 7- Defines manufacturer.

Section 8- Defines medical cannabis.

Section 9- Defines medical cannabis product.

Section 10- Defines medical records.

Section 11- Defines participating health care practitioner.

Section 12- Defines patient.

Section 13- Defines patient registry.

Section 14- Defines qualifying medical condition.

Section 15- Defines registered designated caregiver.

Section 16- Defines registry program.

Section 17- Defines registry verification.

Section 18- Clarifies the act does not provide immunity from civil or criminal penalty when it could constitute negligence or professional malpractice; when done in the presence of minors or the general public; operating a vehicle or heavy equipment.

Medical cannabis is not covered by the Medical Assistance Act, nor will private insurers be required to cover costs of medical cannabis.

Section 19- Establishes the medical cannabis registry under DHHS.

Section 20- Outlines patient enrollment.

Section 21- Requires DHHS to develop an enrollment application and outlines basic information the application shall include and require.

Section 22- Provides for enrollment processes, including verification, denial, and appeal of denial.

Section 23- Presumption of authorization to use cannabis if properly enrolled in the DHHS registry.

Section 24- Provides process for registering designated caregivers, including application and background check requirements.

Section 25- Provides process for parents to register as a designated caregiver, including application and background check requirements.

Section 26- Provides requirements for notification of DHHS by the patient or registered caregiver of address changes or the death of the patient.

Section 27- Provides requirements of examination and certification of a patient seeking enrollment on the medical cannabis registry by a health care practitioner.

Section 28- Requires DHHS to create a certification process for health care practitioners to examine and certify patients for enrollment on the medical cannabis registry, including providing notice of the program's existence, explanatory materials regarding the medical cannabis act, assistance in understanding compliance with the act and oversight of participating practitioners.

Section 29- Data collected under this act are medical records and are subject to the Nebraska Brain Injury Registry Act.

Section 30- Provides how DHHS is to create registration and renewal processes for one manufacturer in each Nebraska Congressional district; deadlines for application and registration; and requirements that manufacturers must meet to qualify for and maintain registration.

Section 31- Provides process for manufacturer operation and reporting to DHHS.

Section 32- Mandates the use of tracking numbers for medical cannabis shipments. Nebraska medical cannabis shall not be shipped out of state.

Section 33- Provides how DHHS is to create registration and renewal processes for up to four compassion centers in each Nebraska Congressional district; deadlines for application and registration; and requirements that the centers must meet to qualify for and maintain registration.

Section 34- Requires DHHS to create necessary rules and regulations for the distribution of medical cannabis to those on the registry and a process for extending the start of distribution based on manufacturer availability.

Section 35- Requires all medical cannabis distributions to be handled by a licensed pharmacist under the Pharmacy Practice Act and outlines the proper tracking and distribution practice to be used by compassion centers.

Section 36- Provides that cities and counties may adopt resolutions or ordinances prohibiting the operation of a medical cannabis manufacturer or compassion center in their jurisdiction. If all counties and cities in a congressional district prohibit the manufacture or dispensing of medical cannabis, a second manufacturer and/or up to four compassion centers, may register in another congressional district.

Manufacturers are limited to producing and processing to one location and compassion centers may only distribute medical cannabis outlined in the act.

Outlines what shall be contained in the operating documents of a compassion center, as well as required security and a prohibition on sharing space with a participating health care practitioner or the consumption of medical cannabis on premises.

Employees must be over 21 and have a criminal background check clear of disqualifying offenses. Prospective employees shall cover the costs of their own background checks.

Compassion centers are prohibited from operating within one thousand feet of a school and shall comply with all applicable zoning regulations as well as applicable signage and advertising restrictions.

Section 37- Specifies immunity under the Medical Cannabis Act for: possession or use of medical cannabis by an enrolled patient; possession by an enrolled caregiver; possession or sale by a registered manufacturer, compassion center, medical cannabis testing labs, or their employees; possession of medical cannabis or medical cannabis products while performing duties under the Medical Cannabis Act.

Medical cannabis under the Act is not subject to criminal forfeiture.

DHHS and its employees and participating pharmacists are exempt from civil or disciplinary penalties by respective licensing boards for participation in the Act.

Law enforcement entities are prohibited access to the medical cannabis registry unless acting under a search warrant or in determining a patient's authorization to possess medical cannabis. Violation of this provision is a Class I misdemeanor. No Medical Cannabis Act documentation can be used in a criminal proceeding unless obtained from outside sources or in conjunction with an investigation of a violation of the Act.

Attorneys providing legal assistance to a manufacturer or compassion center shall not be subject to disciplinary action or criminal penalties acting within the bounds of the Act.

Possession of registry verification or enrollment on the registry does not constitute probable cause.

Section 38- Schools and landlords may not discriminate against anyone based on their enrollment on the registry; medical cannabis does not disqualify a patient from needed medical care like organ receipt; custody of a minor child, or other parental visitation rights shall not be denied based on registry enrollment.

Section 39- Penalties for illegal sale or dispensing to an unenrolled individual or caregiver will be a Class IV felony. Conviction precludes the individual from future participation in the Medical Cannabis Act.

Section 40- In addition to any other criminal penalties, patients, caregivers, and other affiliated individuals who sell or distribute medical cannabis to a no registered person is guilty of a Class IV felony.

Section 41- In addition to any other criminal penalties, patients, caregivers, and other affiliated individuals who make false statements to law enforcement regarding use of medical cannabis is guilty of a Class III misdemeanor. If the individual committing the violation is a patient or caregiver, they are prohibited from future participation under the Act.

Section 42- Submitting false records under the Act is a Class IV felony.

Section 43- Violations of the Act by manufacturers or compassion centers shall result in fines of up to one thousand dollars in addition to other applicable penalties in statute.

Section 44- Requires DHHS collect an application fee of twenty-five thousand dollars from each entity applying to be a manufacturer or compassion center under the Act; an annual fee of up to seventy-five thousand dollars for regulation an inspection of manufacturers; and an annual fee of up to twenty-five thousand dollars for regulation and inspection of

compassion centers Such fees will be placed in the Medical Cannabis Regulation Fund.

Section 45- Creates the Medical Cannabis Regulation Fund.

Section 46- Provides that DHHS may inspect and issue a report on any manufacturer or compassion center at any time within the rules promulgated by the department. Costs associated with inspection shall be paid by the manufacturer or center.

Section 47- Requires DHHS to adopt rules and regulations to address situations when unauthorized individuals are found in possession of medical cannabis; reporting requirements; and overdose reporting requirements for law enforcement and medical professionals.

Section 48- Establishes the Medical Cannabis Board; number of members; and membership requirements.

Section 49- Outlines appointment process and terms of service for the Medical Cannabis Board.

Section 50- Provides for reimbursement for service on the Medical Cannabis Board.

Section 51- Outlines election of leadership of the Medical Cannabis Board, including time and manner of elections.

Section 52- Outlines general process for Medical Cannabis Board meetings including: timing; notice; quorum; and open meetings requirements.

Section 53- Outlines purpose of the Medical Cannabis Board.

Section 54- Provides immunity from civil defamation and communication actions when engaging in their duties as a board member.

Section 55-61- Harmonizes provisions.

Section 62- Designates October 1, 2017 as the operative date of the Medical Cannabis Act.

Section 63-64- Repeals original sections.

Explanation of amendments:

LB 622 as amended by AM 697 would adopt the Medical Cannabis Act in Nebraska legalizing the consumption of cannabis for limited medical purposes. This is a "white copy amendment" that strikes all sections of the bill and replaces as follows (underlines denote major change from the initial bill):

Section 1- Cites the name of the Act.

Section 2-20- Definitions.

Adds topical creams and lotions to the definition of "medical cannabis";

Removes "manufacturer" and replaces with "processor" and "producer";

Defines "processor" and "process";

Defines "producer" and "produce".

Section 21- Clarifies the act does not provide immunity from civil or criminal penalty when it could constitute negligence or professional malpractice; when done in the presence of minors or the general public; operating a vehicle or heavy equipment.

Medical cannabis is not covered by the Medical Assistance Act, nor will private insurers be required to cover costs of medical cannabis.

Section 22- Establishes the medical cannabis registry under DHHS.

Section 23- Outlines patient enrollment process.

Section 24- Requires DHHS to develop an enrollment application and outlines basic information the application shall include and require.

Section 25- Provides for enrollment processes, including verification, denial, and appeal of denial.

Section 26- Presumption of authorization to use cannabis if properly enrolled in the DHHS registry.

Section 27- Provides process for registering designated caregivers, including application and background check requirements.

Section 28- Provides process for parents to register as a designated caregiver, including application and background check requirements.

Section 29- Provides requirements for notification of DHHS by the patient or registered caregiver of address changes or the death of the patient.

Section 30- Provides requirements of examination and certification of a patient seeking enrollment on the medical cannabis registry by a health care practitioner.

Section 31- Requires DHHS to create a certification process for health care practitioners to examine and certify patients

for enrollment on the medical cannabis registry, including providing notice of the program's existence, explanatory materials regarding the medical cannabis act, assistance in understanding compliance with the act and oversight of participating practitioners.

Section 32- Data collected under this act are medical records and are subject to the Nebraska Brain Injury Registry Act.

Section 33- Provides how DHHS is to create registration and renewal processes for ten producers and ten processors in each Nebraska Congressional district; deadlines for application and registration; requirements that producers and processors must meet to qualify for and maintain registration; and effective dates of registrations.

Outlines factors, findings, and investigations that DHHS must undertake to award a processor or producer registration under the Act.

Section 34- Provides process for processor operation and reporting to DHHS.

Section 35- Mandates the use of tracking numbers for medical cannabis shipments. Nebraska medical cannabis shall not be shipped out of state.

Section 36- Provides how DHHS is to create registration and renewal processes for up to eight compassion centers in each Nebraska Congressional district; deadlines for application and registration; and requirements that the centers must meet to qualify for and maintain registration.

Outlines factors, findings, and investigations that DHHS must undertake to award a compassion center registration under the Act.

Section 37- Requires DHHS to create necessary rules and regulations for the distribution of medical cannabis to those on the registry and a process for extending the start of distribution based on processor availability. Establishes effective dates and deadlines for rule promulgation.

Section 38- Requires all medical cannabis distributions to be handled by a licensed pharmacist under the Pharmacy Practice Act and outlines the proper tracking and distribution practice to be used by compassion centers.

Section 39- Provides that cities and counties may adopt resolutions or ordinances prohibiting the operation of a medical cannabis producer, processor or compassion center in their jurisdiction. If all counties and cities in a congressional district prohibit the production, processing, or dispensing of medical cannabis, a second producer or processor and/or up to four compassion centers may register in another congressional district; or two centers may register in each of the remaining congressional districts.

Compassion centers may only distribute medical cannabis outlined in the act and are prohibited from production and processing. Removes requirement that production and processing be done at only one location.

Outlines what shall be contained in the operating documents of a producer, processor or compassion center, as well as required security and a prohibition on sharing space with a participating health care practitioner or the consumption of medical cannabis on premises.

Employees must be over 21 and have a criminal background check clear of disqualifying offenses. Prospective employees shall cover the costs of their own background checks.

Compassion centers are prohibited from operating within one thousand feet of any school and shall comply with all applicable zoning regulations as well as applicable signage and advertising restrictions.

Section 40- Specifies immunity under the Medical Cannabis Act for: possession or use of medical cannabis by an enrolled patient; possession by an enrolled caregiver; possession or sale by a registered producer, processor, compassion center, medical cannabis testing labs, or their employees; possession of medical cannabis or medical cannabis products while performing duties under the Medical Cannabis Act.

Medical cannabis under the Act is not subject to criminal forfeiture.

DHHS and its employees and participating pharmacists are exempt from civil or disciplinary penalties by respective licensing boards for participation in the Act.

Law enforcement entities are prohibited access to the medical cannabis registry unless acting under a search warrant or in determining a patient's authorization to possess medical cannabis. Violation of this provision is a Class I misdemeanor. No Medical Cannabis Act documentation can be used in a criminal proceeding unless obtained from outside sources or in conjunction with an investigation of a violation of the Act.

Attorneys providing legal assistance to a producer, processor, or compassion center shall not be subject to disciplinary action or criminal penalties acting within the bounds of the Act.

Possession of registry verification or enrollment on the registry does not constitute probable cause.

Section 41- Schools and landlords may not discriminate against anyone based on their enrollment on the registry; medical cannabis does not disqualify a patient from needed medical care like organ receipt, custody of a minor child, or other parental visitation rights shall not be denied based on registry enrollment.

Section 42- Penalties for illegal sale or dispensing to an unenrolled individual or caregiver will be a Class IV felony. Conviction precludes the individual from future participation in the Medical Cannabis Act.

Section 43- In addition to any other criminal penalties, patients, caregivers, and other affiliated individuals who sell or distribute medical cannabis to a no registered person is guilty of a Class IV felony.

Section 44- In addition to any other criminal penalties, patients, caregivers, and other affiliated individuals who make false statements to law enforcement regarding use of medical cannabis is guilty of a Class III misdemeanor. If the individual committing the violation is a patient or caregiver, they are prohibited from future participation under the Act.

Section 45- Submitting false records under the Act is a Class IV felony.

Section 46- Violations of the Act by producer, processor's or compassion centers shall result in fines of up to one thousand dollars in addition to other applicable penalties in statute.

Section 47- Requires DHHS collect an application fee of twenty-five thousand dollars from each entity applying to be a producer, processor, or compassion center under the Act; an annual fee of up to forty thousand dollars for regulation an inspection of producers and processors; and an annual fee of up to twenty-five thousand dollars for regulation and inspection of compassion centers Such fees will be placed in the Medical Cannabis Regulation Fund.

Section 48- Creates the Medical Cannabis Regulation Fund.

Section 49- Provides that DHHS may inspect and issue a report on any producer, processor, or compassion center at any time within the rules promulgated by the department. Costs associated with inspection shall be paid by the producer, processor, or center.

Section 50- Requires DHHS to adopt rules and regulations to address incidents when unauthorized individuals are found in possession of medical cannabis; reporting requirements; and overdose reporting requirements for law enforcement and medical professionals.

Section 51- Establishes the Medical Cannabis Board; number of members; and membership requirements.

Section 52- Outlines appointment process and terms of service for the Medical Cannabis Board.

Section 53- Provides for reimbursement for service on the Medical Cannabis Board.

Section 54- Outlines election of leadership of the Medical Cannabis Board, including time and manner of elections.

Section 55- Outlines general process for Medical Cannabis Board meetings including: timing; notice; quorum; and open meetings requirements.

Section 56- Outlines purpose of the Medical Cannabis Board.

Section 57- Provides immunity from civil defamation and communication actions when engaging in their duties as a board member.

Section 58-61- Harmonizes provisions.

Section 62- Authorizes the State Treasurer to credit the Medical Cannabis Regulation Fund with all applicable taxes collected under the Medical Cannabis Act.

Section 63-64- Harmonizes provisions.

Section 65- Designates October 1, 2017 as the operative date of the Medical Cannabis Act.

Section 66-67- Repeals original sections.

Laura Ebke, Chairperson