

# Division of Medical Marijuana



## **Medical Marijuana Program** **Annual Report** Fiscal Year 2018

Honorable Doug Burgum, Governor

Members of the North Dakota Legislative Assembly

I am pleased to submit the first Annual Report for the Medical Marijuana Program. This report is required pursuant to North Dakota Century Code Section 19-24.1-39. In addition, this report includes information related to a study of debilitating medical conditions as required by Chapter 171 of the 2017 Session Laws.

The Medical Marijuana Program was being implemented at the time of this report. Due to this, most of the data elements required to be reported are not included as no manufacturing facilities or dispensaries were registered by the end of fiscal year 2018. Subsequent Annual Reports will include all required reporting information.

If you have questions related to the report or other aspects of the program, please contact the Division of Medical Marijuana at 328-1311.

Sincerely,



Jason M. Wahl  
Director, Division of Medical Marijuana

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**Glossary**

(Terms as defined in NDCC Section 19-24.1-01)

Cardholder: means a qualifying patient, designated caregiver, or compassion center agent who has been issued and possesses a valid registry identification card.

Compassion Center: means a manufacturing facility or dispensary.

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.

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.

Health Care Provider: means a physician or an advanced practice registered nurse.

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.

Qualifying Patient: means an individual who has been diagnosed by a health care provider as having a debilitating medical condition.

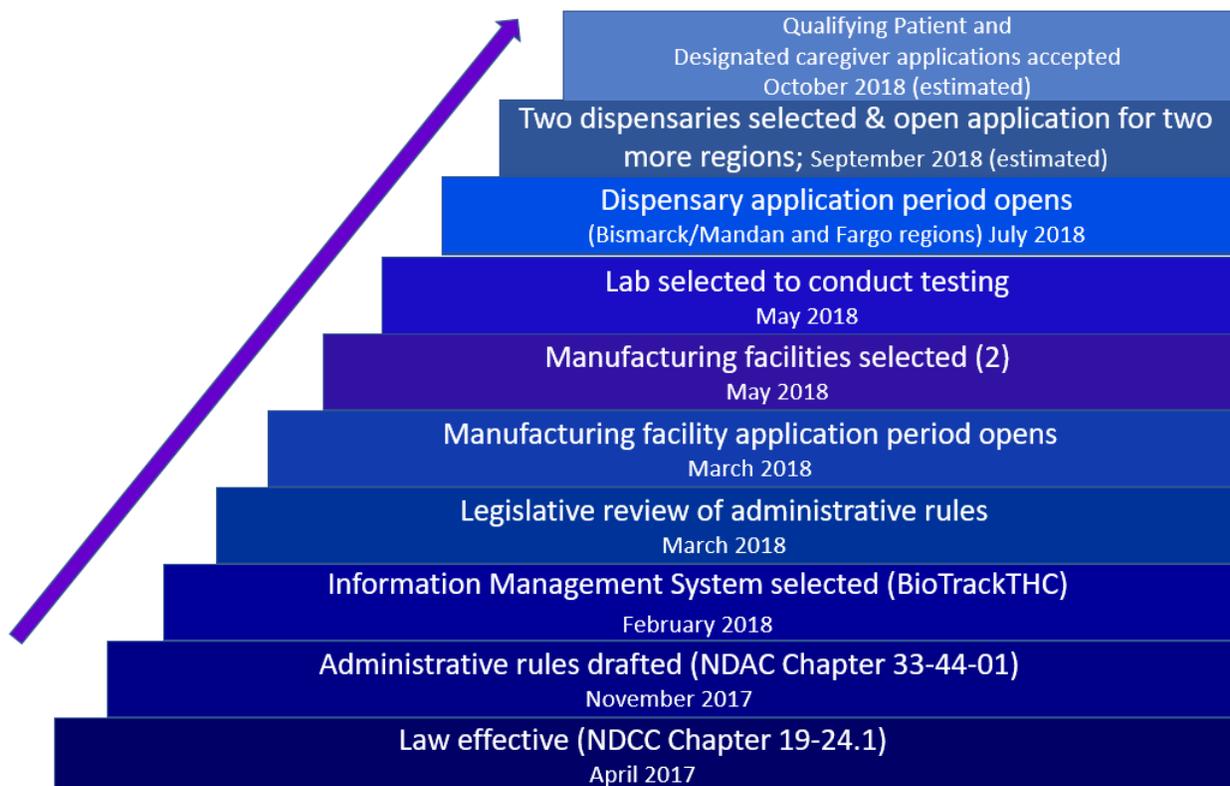
Registry Identification Card: means a document issued by the department which identifies an individual as a registered qualifying patient, registered designated caregiver, or registered compassion center agent.

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.

## **Background Information and Status of the Program**

In November 2016, an initiated measure, known as the “North Dakota Compassionate Care Act,” was approved by voters. On January 26, 2017, the provisions of the North Dakota Compassionate Care Act were suspended through legislation passed by the Legislative Assembly. On April 18, 2017, a new state law became effective requiring the Department of Health (DoH) to establish and implement a Medical Marijuana Program allowing for the production and processing, sale and dispensing of usable marijuana, and medical use of marijuana. Since the effective date of the new state law, the DoH has been committed to implementing a well-regulated program that would protect the health and safety of qualifying patients and the public.

The chart below provides information related to the major steps in implementing the program:



State law specifies that the DoH is to register no more than two manufacturing facilities and eight dispensaries unless the DoH determines additional entities are necessary to increase access to usable marijuana by registered qualifying patients and registered designated caregivers. An open application period for manufacturing facilities started in March 2018. There were 19 applications submitted. Following an evaluation of nine complete applications, two entities were selected to move forward with the registration process. One entity, Pure Dakota LLC, will locate their facility in Bismarck while the other entity, Grassroots Cannabis (legal name GR Vending ND, LLC), will be located in Fargo.

The DoH has established eight regions in the state where dispensaries may be located. Regions are comprised of a 50-mile radius from certain cities. On July 10, 2018, an application period was opened to accept applications from entities to become a registered dispensary in the

Bismarck/Mandan region and in the Fargo region. The selection of an applicant to move forward in the registration process in each region is anticipated to be complete near the end of September.

By the end of September, an application period will open for the Grand Forks region and Williston region. The selection of an applicant to move forward in each of these two regions is anticipated to be complete by the end of December. An open application period for the four remaining dispensary regions is expected to occur in January 2019.

By the end of October 2018, it is anticipated applications will be available for qualifying patients and designated caregivers. An online application process will be used in the registration process.

Following a formal procurement process, a contract was entered into with BioTrackTHC for an information management system that includes a seed-to-sale inventory tracking system as well as a registration system. In addition, another formal procurement process was used to select a vendor to conduct compliance testing as required by administrative rules. Keystone State Testing (dba Dakota State Testing) is expected to have their laboratory located in Fargo.

### **State Law Reporting Requirements**

NDCC Section 19-24.1-39 requires the DoH to submit an annual report that 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.

At the time of this report, no data exists related to items 1 through 5 as listed above. There are two entities who have been selected to move forward with the registration process to become registered manufacturing facilities. Expense and revenue information follow:

Fiscal Year 2018 Expenditures	
Salaries and Wages	\$269,289
Operating	\$94,137
Total Expenditures	\$363,426
General Funds	\$345,651
Special Funds	\$17,775

Fiscal Year 2018 Revenue	
Medical Marijuana Fees*	\$95,000

\* All revenue is from the nonrefundable application fee (\$5,000) paid by entities submitting manufacturing facility applications.

## Session Law Study Requirement

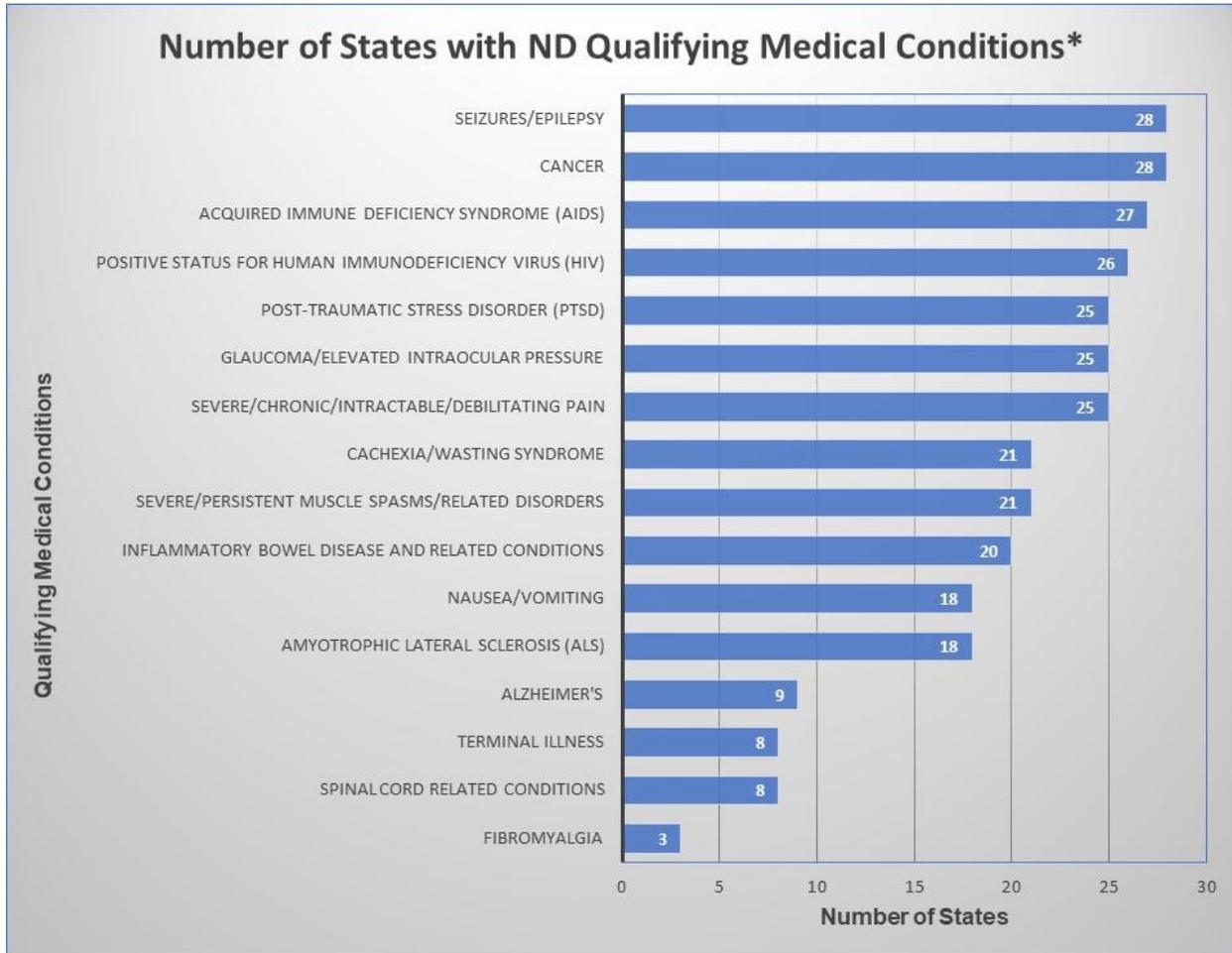
Chapter 171 of the 2017 Session Laws required the DoH to conduct a study of the feasibility and desirability of adding identified medical conditions or providing for an administrative process to add identified medical conditions to the definitions of “debilitating medical condition” under the Medical Marijuana Program. Since the program was still being implemented in fiscal year 2018, we conducted a review and analysis of states’ medical marijuana qualifying medical conditions and compared the results with the debilitating medical conditions included in North Dakota Century Code (NDCC) Chapter 19-24.1. The debilitating medical conditions under NDCC Chapter 19-24.1 are:

- 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.

Several medical conditions exist in other states’ programs that are identical to the debilitating medical conditions in the North Dakota program. Also, similarities exist with the terminology used in other states’ medical conditions and the conditions within the North Dakota program. However, differences in terminology included in various states made it difficult to categorize certain medical conditions to compare among states and to North Dakota. Examples include:

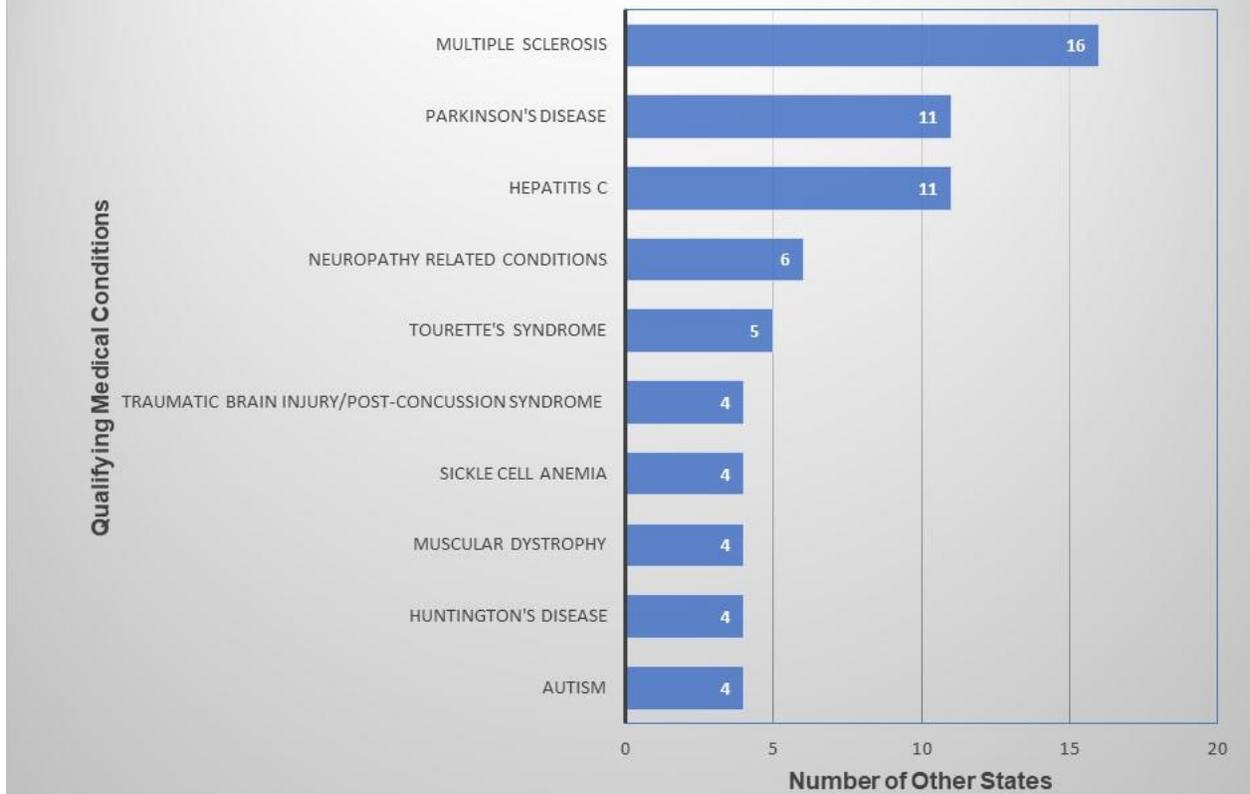
- While a medical condition is included in another state’s program, there may be an additional requirement or symptom needed to qualify. For example, two states include cancer as a medical condition and require an individual to have one or more associated symptoms such as severe or chronic pain or severe nausea. For analysis purposes, the two states were included in the ‘Cancer’ category.
- Within state law, the last listed debilitating medical condition in the North Dakota program is a chronic or debilitating disease or medical condition or treatment for such disease or medical condition that produces one or more of five listed items. For analysis purposes, we categorized the five items (cachexia or wasting syndrome, seizures, etc.) into specific categories.

We attempted to consistently use information identified in other states' laws to categorize medical conditions for comparison purposes. Information regarding other states' medical conditions were reviewed as of July 2018. We identify 29 other states with laws related to a medical marijuana program. This does not include Oklahoma who had passed a ballot measure in late June 2018 to establish medical marijuana laws. We used the information reviewed to create the following two charts.



\* Data includes a review of 29 other states' medical conditions. One of North Dakota's debilitating medical conditions, decompensated cirrhosis caused by Hepatitis C, was not specifically included in other states' programs. However, Delaware includes decompensated cirrhosis and 11 other states include Hepatitis C.

## Top 10 Conditions Not Specifically Listed in ND Law\*



\* It should be noted while North Dakota's program does not identify certain medical conditions listed in the above chart as a specific condition, individuals with such conditions may still be eligible to be a registered qualifying patient. Within state law, a listed debilitating medical condition includes a chronic or debilitating disease or medical condition or treatment for such disease or medical condition that produces one or more of five listed items (such as cachexia or wasting syndrome, seizures, and severe and persistent muscle spasms). Thus, an individual with a medical condition such as multiple sclerosis, Parkinson's disease, or Huntington's disease having severe and persistent muscle spasms could have a debilitating medical condition under the North Dakota program. However, certain medical conditions identified in other states and not in North Dakota's program such as autism would not appear to allow an individual with such conditions to be eligible.

Other states have various ways of adding qualifying medical conditions to the list of eligible conditions. Certain states allow a department commissioner or a specific department to add conditions, certain states provide for a petition process, and other states use an advisory committee to review information regarding medical conditions and make recommendations to an appropriate body.

### Conclusion

Our review identified most of the debilitating medical conditions for the North Dakota program are included in several of the other states' programs. We did identify medical conditions included in other states' programs that are not specifically listed in North Dakota's law. However, symptoms associated with specific medical conditions identified in other states may still allow an individual

to qualify to be a registered qualifying patient in North Dakota. The information included in this report may be considered by the legislative body in determining whether any changes are necessary to the statutory debilitating medical conditions of the Medical Marijuana Program. Based on our review of other states and the fact the program was still being implemented at the time of this report, the DoH has no recommendations to consider related to the law regarding debilitating medical conditions.