

NINETEENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

First

REGULAR SESSION, 2015

S. B. NO. 19-06

A BILL FOR AN ACT

To legalize the use of medicinal marijuana in the Commonwealth of the Northern Mariana Islands and to amend 6 CMC Section 2114 (c)(13) and (20) to allow for the re-scheduling of marijuana; and for other purposes.

BE IT ENACTED BY THE NINETEENTH NORTHERN MARIANAS
COMMONWEALTH LEGISLATURE:

1 **Section 1. Findings and Purpose.** The Commonwealth Legislature finds that
2 the legalization of marijuana has become a much less controversial issue than it did in the
3 past. With Colorado and Washington recently legalizing marijuana to allow recreational
4 use, the CNMI must realize that the time has come to legalize the use and possession of
5 marijuana strictly for medicinal purposes, and to remove any and all associated penalties
6 pertaining to the medicinal use and medical prescription of marijuana. This Legislative
7 body in no way condones the use of marijuana abuse or the use of the substance without a
8 valid prescription. However, the Commonwealth Legislature no longer believes that
9 medicinal marijuana should be prohibited when it can be beneficial to an individual as
10 determined by a licensed physician.

11 The purpose of this Act is intended to find alternative means to help alleviate
12 those suffering from debilitating medical conditions. Currently, there are now 24 states
13 in the U.S. that have enacted laws to legalize marijuana with the newly added addition of
14 Guam. With the current rise in debilitating medical conditions, and the alarming number
15 of cancer cases in the CNMI, we now face the dilemma of having to send our patients
16 abroad for medical treatment when the use of marijuana as a medical means is a doorstep
17 legislation away. Additionally, proponents who find marijuana to be helpful are forced to
18 do one of two things: live and suffer without marijuana or illegally obtain it at the risk of
19 arrest and usually at a cost that reflects its illegal status. Therefore, the Commonwealth

1 Legislature further finds that the use of medical marijuana would be highly beneficial to
2 the community and hereby permit the use of medical marijuana as set forth herein—and
3 hereby move it from the list of Schedule 1 controlled substances to Schedule 3. All
4 penalties and provisions currently in place that prohibit the use and possession of
5 marijuana *without* a prescription remain in full effect.

6 **Section 2. Enactment.** The following is hereby enacted subject to the
7 codification by the Law Revision Commission.

8 “Section 101. Short Title. This chapter may be cited as the Legalization of
9 Medicinal Marijuana Act of 2015.

10 Section 102. Definitions. As used in this Act:

11 (A) “Adequate supply” means an amount of cannabis, in any form approved by
12 the Corporation, possessed by a qualified patient or collectively possessed by a qualified
13 patient and the qualified patient’s primary caregiver that is determined by rule of the
14 Corporation to be no more than reasonably necessary to ensure the uninterrupted
15 availability of cannabis for a period of three (3) months and that is derived solely from an
16 intrastate source.

17 (B) “Cannabis” means all parts of the plant of the genus cannabis, whether
18 growing or not, the seeds thereof, the resin extracted from any part of the plant, and every
19 compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or
20 its resin, including marijuana concentrate. “Cannabis” does not include the mature stalks
21 of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant,
22 sterilized seed of the plant which is incapable of germination, or the weight of any other
23 ingredient combined with marijuana to prepare topical or oral administrations, food,
24 drink, or other products.

25 (C) “Debilitating medical condition” means:

- 26 (1) cancer;
27 (2) glaucoma;
28 (3) multiple sclerosis;

- 1 (4) damage to the nervous tissue of the spinal cord, with objective
2 neurological indication of intractable spasticity;
3 (5) epilepsy;
4 (6) positive status for human immunodeficiency virus or acquired immune
5 deficiency syndrome;
6 (7) admitted into hospice care in accordance with rules promulgated under
7 this Act;
8 (8) post-traumatic stress disorder;
9 (9) rheumatoid arthritis or similar chronic autoimmune inflammatory
10 disorders; or
11 (10) any other medical condition, medical treatment or disease as
12 approved by the Department;

13 (D) "Corporation" means the Commonwealth Healthcare Corporation.

14 (E) "Homegrown cultivation registration" means a registration issued to qualified
15 patients or their personal caregivers under the terms of Section 107 of this Act.

16 (F) "Hospice care" means palliative care for the terminally and seriously ill
17 provided in a hospital, nursing home, or private residence.

18 (G) "Licensed producer" means any person or association of persons within the
19 CNMI that the Corporation determines to be qualified to produce, possess, distribute and
20 dispense cannabis pursuant to this Act and that is licensed by the Corporation.

21 (H) "Medical use" means the acquisition, cultivation, possession, processing,
22 (including development of related products such as food, tinctures, aerosols, oils, or
23 ointments), transfer, transportation, sale, distribution, dispensing, or administration of
24 cannabis, as well as the possession of cannabis paraphernalia, for the benefit of
25 qualifying patients in the treatment of debilitating medical conditions, or the symptoms
26 thereof.

27 (I) "Practitioner" means a person licensed in the CNMI to prescribe and
28 administer drugs that are subject to the Commonwealth Controlled Substances Act.

(J) "Primary caregiver" means a resident of the CNMI who is at least eighteen (18) years of age and who has been designated by the qualified patient as being necessary to assist the patient in the medical use of cannabis in accordance with the provisions of this Act, and who so agrees to assist the patient. Primary caregivers are prohibited from consuming cannabis obtained for the personal, medical use of the qualified patient.

(K) "Qualified patient" means a resident of the CNMI who has been diagnosed by a practitioner as having a debilitating medical condition and has received written certification and a registry identification card issued pursuant to this Act.

(L) "Written certification" means a statement in a patient's medical records or a statement signed by a patient's practitioner that, in the practitioner's professional opinion, the patient has a debilitating medical condition and the practitioner believes that the potential health benefits of the medical use of cannabis would likely outweigh the health risks for the patient. A written certification is not valid for more than one (1) year from the date of issuance.

Section 103. Exemptions from Criminal and Civil Penalties for the Medical use of Cannabis.

(A) A qualified patient *shall not* be subject to arrest, prosecution or penalty in any manner for the possession of or the medical use of cannabis if the quantity of cannabis does not exceed an adequate supply.

(B) A qualified patient's primary caregiver *shall not* be subject to arrest, prosecution or penalty in any manner for the possession of cannabis for medical use by the qualified patient if the quantity of cannabis does not exceed an adequate supply.

(C) Subsection A of this section *shall not* apply to a qualified patient under the age of eighteen years, unless:

- (1) the qualified patient's practitioner has explained the potential risks and benefits of the medical use of cannabis to the qualified patient and to a parent, guardian or person having legal custody of the qualified patient;
- and

1 (2) a parent, guardian or person having legal custody consents in writing
2 to:

- 3 (a) allow the qualified patient's medical use of cannabis;
4 (b) serve as the qualified patient's primary caregiver; and
5 (c) control the dosage and the frequency of the medical use of
6 cannabis by the qualified patient.

7 (D) A qualified patient or a primary caregiver *shall* be granted the full legal
8 protections provided in this section if the patient or caregiver is in possession of a registry
9 identification card.

10 (E) A qualified patient who fails to register and receive a registry identification
11 card from the Corporation but who nevertheless has received a written certification from
12 their physician for the medical use of cannabis may be subject to arrest or prosecution but
13 may raise an affirmative defense at trial.

14 (F) A practitioner *shall not* be subject to arrest or prosecution, penalized in any
15 manner or denied any right or privilege for recommending the medical use of cannabis or
16 providing written certification for the medical use of cannabis pursuant to this Act.

17 (G) A licensed producer *shall not* be subject to arrest, prosecution or penalty, in
18 any manner, for the production, possession, distribution or dispensing of cannabis in
19 compliance with this Act.

20 (H) Any property interest that is possessed, owned or used in connection with the
21 medical use of cannabis, or acts incidental to such use, *shall not* be harmed, injured or
22 destroyed while in the possession of law enforcement officials. Any such property
23 interest *shall not* be forfeited under any Commonwealth law providing for the forfeiture
24 of property except as provided in 6 CMC Section 2150. Cannabis, paraphernalia or other
25 property seized from a qualified patient or primary caregiver in connection with the
26 claimed medical use of cannabis *shall* be returned immediately upon the determination by
27 a court or prosecutor that the qualified patient or primary caregiver is entitled to the

1 protections of the provisions of this Act, as may be evidenced by a failure to actively
2 investigate the case, a decision not to prosecute, the dismissal of charges or acquittal.

3 (I) A person *shall not* be subject to arrest or prosecution for a cannabis-related
4 offense for simply being in the presence of the medical use of cannabis as permitted
5 under the provisions of this Act.

6 (J) A person *shall not* be subject to arrest or prosecution for a cannabis-related
7 offense for simply allowing one's property to be used by qualified patients or their
8 primary caregivers for the homegrown cultivation of cannabis to the extent permitted
9 under Section 8 of this Act.

10 Section 104. Prohibitions, Restrictions and Limitations on the Medical Use of
11 Cannabis—Criminal Penalties.

12 (A) Participation in the medical use of cannabis by a qualified patient or primary
13 caregiver does not relieve the qualified patient or primary caregiver from:

- 14 (1) criminal prosecution or civil penalties for activities not permitted by
15 this Act;
16 (2) liability for damages or criminal prosecution arising out of the
17 operation of a vehicle while under the influence of cannabis; or
18 (3) criminal prosecution or civil penalty for possession or use of cannabis:
19 (a) in a school bus or public vehicle;
20 (b) on school grounds or property;
21 (c) in the workplace of the qualified patient's or primary
22 caregiver's employment; or
23 (d) at a public park, recreation center, youth center or other public
24 place.

25 (B) A person who makes a fraudulent representation to a law enforcement officer
26 about the person's participation in a medical use of cannabis program to avoid arrest or
27 prosecution for a cannabis-related offense is guilty of a petty misdemeanor.

1 (C) If a licensed producer sells, distributes, dispenses or transfers cannabis to a
2 person not permitted to participate in the medical use of cannabis under this Act, or
3 obtains or transports cannabis outside the CNMI in violation of federal law, the licensed
4 producer shall be subject to arrest, prosecution and civil or criminal penalties in
5 accordance with CNMI law.

6 Section 105. Medicinal Marijuana Advisory Board Created—Duties. Within
7 sixty (60) days after enactment of this Act, the Chief Executive Officer (CEO) of the
8 Corporation *shall* establish a medicinal marijuana advisory board consisting of seven (7)
9 members, six (6) of which *shall* be practitioners representing the fields of neurology, pain
10 management, medical oncology, psychiatry, infectious disease, family medicine or
11 related field, and one (1) of which *shall* be a member of the public at large. The
12 practitioners *shall* be board-certified in their area of specialty and knowledgeable about
13 the medical use of cannabis. The members *shall* be chosen for appointment by the CEO
14 from a list proposed by the CNMI Health Professional Licensing Board. Said list *shall* be
15 submitted by the CNMI Health Professional Licensing Board to the Corporation within
16 thirty (30) days of enactment of this Act. A quorum of the advisory board shall consist of
17 three (3) members. The advisory board *shall*:

18 (A) review and recommend to the Corporation for approval additional debilitating
19 medical conditions that would benefit from the medical use of cannabis;

20 (B) accept and review petitions to add medical conditions, medical treatments or
21 diseases to the list of debilitating medical conditions that qualify for the
22 medical use of cannabis;

23 (C) convene at least twice per year to conduct public hearings and to evaluate
24 petitions, which shall be maintained as confidential personal health
25 information, to add medical conditions, medical treatments or diseases to the
26 list of debilitating medical conditions that qualify for the medical use of
27 cannabis; and

28 (D) recommend quantities of cannabis that are necessary to constitute an adequate

1 supply for qualified patients and primary caregivers.

2 Section 106. Corporation Rules; Registry Identification Cards.

3 (A) No later than nine (9) months after enactment of this Act, and after
4 consultation with the advisory board, the Corporation *shall* promulgate rules in
5 accordance with the Administrative Procedure Act, 1 CMC § 9101 *et seq.*, to implement
6 the purpose of this Act. The rules *shall*:

7 (1) govern the manner in which the Corporation will consider applications
8 for registry identification cards and for the renewal of identification cards
9 for qualified patients and primary caregivers;

10 (2) define the amount of cannabis that is necessary to constitute an
11 adequate supply, including amounts for topical treatments;

12 (3) identify criteria and set forth procedures for including additional
13 medical conditions, medical treatments or diseases to the list of
14 debilitating medical conditions that qualify for the medical use of
15 cannabis. Procedures shall include a petition process and shall allow for
16 public comment and public hearings before the advisory board;

17 (4) set forth additional medical conditions, medical treatments or diseases
18 to the list of debilitating medical conditions that qualify for the medical
19 use of cannabis as recommended by the advisory board;

20 (5) identify requirements for the licensure of producers and cannabis
21 production facilities and set forth procedures to obtain licenses;

22 (6) develop a distribution system for medical cannabis that provides for:

23 (a) cannabis production facilities within the CNMI housed on
24 secured grounds and operated by licensed producers; and

25 (b) distribution of medical cannabis to qualified patients or their
26 primary caregivers to take place at locations that are designated by
27 the Corporation and that are not within one thousand (1,000) feet
28 of any school, church or daycare center;

- 1 (7) determine additional duties and responsibilities of the advisory board;
- 2 (8) be revised and updated as necessary; and
- 3 (9) set application fees for registry identification cards so as to defray the
- 4 administrative costs of implementing this Act.

5 (B) The Corporation *shall* issue registry identification cards to a patient and to
6 the primary caregiver for that patient, if any, who submit the following, in accordance
7 with the Corporation's rules:

- 8 (1) a written certification;
- 9 (2) the name, address and date of birth of the patient;
- 10 (3) the name, address and telephone number of the patient's practitioner;
- 11 and
- 12 (4) the name, address and date of birth of the patient's primary caregiver, if
- 13 any.

14 (C) The Corporation *shall* verify the information contained in an application
15 submitted pursuant to Subsection B of this section and shall approve or deny an
16 application within thirty days of receipt. The Corporation may deny an application only
17 if the applicant did not provide the information required pursuant to Subsection B of this
18 section or if the Corporation determines that the information provided is false. A person
19 whose application has been denied *shall not* reapply for six (6) months from the date of
20 the denial unless otherwise authorized by the Corporation.

21 (D) The Corporation *shall* issue a registry identification card within five (5) days
22 of approving an application, and a card *shall* expire one year after the date of issuance. A
23 registry identification card *shall* contain:

- 24 (1) the name, address and date of birth of the qualified patient and primary
- 25 caregiver, if any;
- 26 (2) the date of issuance and expiration date of the registry identification
- 27 card; and
- 28 (3) other information that the Corporation may require by rule.

(E) A person who possesses a registry identification card *shall* notify the Corporation of any change in the person's name, address, qualified patient's practitioner, qualified patient's primary caregiver or change in status of the qualified patient's debilitating medical condition within ten (10) days of the change.

(F) Possession of or application for a registry identification card *shall not* constitute probable cause or give rise to reasonable suspicion for a governmental agency to search the person or property of the person possessing or applying for the card.

(G) The Corporation *shall* maintain a confidential file containing the names and addresses of the persons who have either applied for or received a registry identification card. Individual names on the list *shall* be confidential and not subject to disclosure, except:

(1) to authorized employees or agents of the Corporation as necessary to perform the duties of the Corporation pursuant to the provisions of this Act;

(2) to authorized employees of Commonwealth law enforcement agencies, but only for the purpose of verifying that a person is lawfully in possession of a registry identification card; or

(3) as provided in the federal Health Insurance Portability and Accountability Act of 1996, codified at 42 U.S.C. § 1320d *et seq.*

Section 107. Homegrown Cultivation Registrations. If after nine (9) months after enactment of this Act, the Corporation has failed to promulgate rules as mandated under Section 7 of this Act for the production and distribution of medical cannabis, the Corporation *shall* issue a homegrown cultivation registration to a qualifying patient allowing the patient or the patient's personal caregiver to cultivate a limited number of plants, sufficient to maintain an adequate supply of cannabis, and *shall* require cultivation and storage only in an enclosed, locked facility. Until the Corporation promulgates said rules, the written recommendation of a qualifying patient's physician *shall* constitute a valid cultivation registration."

1 Section 108. Temporary Provision.

2 (A) During the period thirty (30) days after the effective date of rules promulgated
3 by the Corporation pursuant to Section 7 of this Act, a qualified patient who would be
4 eligible to engage in the medical use of cannabis in accordance with this Act but for the
5 lack of effective rules concerning registry identification cards, licensed producers,
6 cannabis production facilities, distribution system and adequate supply, may obtain a
7 written certification from a practitioner and upon presentation of that certification to the
8 Corporation, the Corporation *shall* issue a temporary certification for participation in the
9 program. The Corporation *shall* maintain a list of all temporary certificates issued
10 pursuant to this section.

11 (B) A person possessing a temporary certificate and the person's primary
12 caregiver are not subject to arrest, prosecution, civil or criminal penalty or denial of any
13 right or privilege for possessing cannabis if the amount of cannabis possessed collectively
14 is not more than the amount that is specified on the temporary certificate issued by the
15 Corporation.

16 (C) A practitioner *shall not* be subject to arrest or prosecution to be penalized in
17 any manner or denied any right or privilege for recommending the medical use of
18 cannabis or providing written certification for the medical use of cannabis pursuant to
19 this Act."

20 **Section 3. Amendment.** 6 CMC section 2114 subsection (c) is amended to
21 amend clauses (13) and (20) to read as follows:

22 “(c) Any material, compound, mixture or preparation which contains any quantity
23 of the following hallucinogenic substances, their salts, isomers and salts of isomers,
24 unless specifically excepted, whenever the existence of salts, isomers, and salts of
25 isomers is possible within the specific chemical designation:

- 26 (1) 2,5 dimethoxyamphetamine (2.5-DMA);
27 (2) 3,4-methylenedioxy amphetamine;
28 (3) 5-methoxy-3,4-methylenedioxy amphetamine;

- 1 (4) 4-bromo-2,5 dimethoxy amphetamine (4-bromo-2,5-DMA);
- 2 (5) 3,4,5-trimethoxy amphetamine;
- 3 (6) Bufotenine;
- 4 (7) 4-methoxyamphetamine (PMA);
- 5 (8) Diethyltryptamine;
- 6 (9) Dimethyltryptamine;
- 7 (10) 4-methyl-2,5-dimethoxylamphetamine;
- 8 (11) Ibogaine;
- 9 (12) Lysergic acid diethylamide;
- 10 (13) ~~Marijuana~~; reserved
- 11 (14) Mescaline;
- 12 (15) Peyote;
- 13 (16) N-ethyl-3-piperidyl benzilate;
- 14 (17) N-methyl-3-piperidyl benzilate;
- 15 (18) Psilocyn;
- 16 (19) Psilocybin;
- 17 (20) ~~Tetrahydrocannabinol~~; (reserved)."

18 **Section 4. Preemption.** In the case of conflict with current law, this Act shall
 19 supersede any statute, regulation, rule, or common law provision for the period it remains
 20 in effect.

21 **Section 5. Severability.** If any provision of this Act or the application of any
 22 such provision to any person or circumstance should be held invalid by a court of
 23 competent jurisdiction, the remainder of this Act or the application of its provisions to
 24 persons or circumstances other than those to which it is held invalid shall not be affected
 25 thereby.

26 **Section 6. Savings Clause.** This Act and any repealer contained herein shall not
 27 be construed as affecting any existing right acquired under contract or acquired under

1 statutes repealed or under any rule, regulation, or order adopted under the statutes.
2 Repealers contained in this Act shall not affect any proceeding instituted under or
3 pursuant to prior law. The enactment of the Act shall not have the effect of terminating,
4 or in any way modifying, any liability, civil or criminal, which shall already be in
5 existence on the date this Act becomes effective.

6 **Section 7. Effective Date.** This Act shall take effect upon its approval by the
7 Governor or becoming law without such approval.

Date:

1/22/15

Introduced By:

Senator Sixto K. Igisomar

Reviewed for Legal sufficiency by :


Senate Legal Counsel