

SENATE FLOOR SUBSTITUTE FOR  
SENATE BILL 523

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

AN ACT

RELATING TO CONTROLLED SUBSTANCES; ALLOWING THE MEDICAL USE OF  
CANNABIS; ENACTING THE LYNN AND ERIN COMPASSIONATE USE ACT;  
AMENDING PROVISIONS OF THE CONTROLLED SUBSTANCES ACT; PROVIDING  
PENALTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. [NEW MATERIAL] SHORT TITLE.--Sections 1  
through 7 of this act may be cited as the "Lynn and Erin  
Compassionate Use Act" in honor of Lynn Pierson and Erin  
Armstrong.

Section 2. [NEW MATERIAL] PURPOSE OF ACT.--The purpose of  
the Lynn and Erin Compassionate Use Act is to allow the  
beneficial use of medical cannabis in a regulated system for  
alleviating symptoms caused by debilitating medical conditions  
and their medical treatments.

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1           Section 3. [NEW MATERIAL] DEFINITIONS.--As used in the  
2 Lynn and Erin Compassionate Use Act:

3           A. "adequate supply" means an amount of cannabis,  
4 in any form approved by the department, possessed by a  
5 qualified patient or collectively possessed by a qualified  
6 patient and the qualified patient's primary caregiver that is  
7 determined by rule of the department to be no more than  
8 reasonably necessary to ensure the uninterrupted availability  
9 of cannabis for a period of three months and that is derived  
10 solely from an intrastate source;

11           B. "debilitating medical condition" means:

- 12                   (1) cancer;
- 13                   (2) glaucoma;
- 14                   (3) multiple sclerosis;
- 15                   (4) damage to the nervous tissue of the spinal  
16 cord, with objective neurological indication of intractable  
17 spasticity;
- 18                   (5) epilepsy;
- 19                   (6) positive status for human immunodeficiency  
20 virus or acquired immune deficiency syndrome;
- 21                   (7) admitted into hospice care in accordance  
22 with rules promulgated by the department; or
- 23                   (8) any other medical condition, medical  
24 treatment or disease as approved by the department;

25           C. "department" means the department of health;

1           D. "licensed producer" means any person or  
2 association of persons within New Mexico that the department  
3 determines to be qualified to produce, possess, distribute and  
4 dispense cannabis pursuant to the Lynn and Erin Compassionate  
5 Use Act and that is licensed by the department;

6           E. "practitioner" means a person licensed in New  
7 Mexico to prescribe and administer drugs that are subject to  
8 the Controlled Substances Act;

9           F. "primary caregiver" means a resident of New  
10 Mexico who is at least eighteen years of age and who has been  
11 designated by the patient's practitioner as being necessary to  
12 take responsibility for managing the well-being of a qualified  
13 patient with respect to the medical use of cannabis pursuant to  
14 the provisions of the Lynn and Erin Compassionate Use Act;

15           G. "qualified patient" means a resident of New  
16 Mexico who has been diagnosed by a practitioner as having a  
17 debilitating medical condition and has received written  
18 certification and a registry identification card issued  
19 pursuant to the Lynn and Erin Compassionate Use Act; and

20           H. "written certification" means a statement in a  
21 patient's medical records or a statement signed by a patient's  
22 practitioner that, in the practitioner's professional opinion,  
23 the patient has a debilitating medical condition and the  
24 practitioner believes that the potential health benefits of the  
25 medical use of cannabis would likely outweigh the health risks

.169433.2

1 for the patient. A written certification is not valid for more  
2 than one year from the date of issuance.

3 Section 4. [NEW MATERIAL] EXEMPTION FROM CRIMINAL AND  
4 CIVIL PENALTIES FOR THE MEDICAL USE OF CANNABIS.--

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

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

14 C. Subsection A of this section shall not apply to  
15 a qualified patient under the age of eighteen years, unless:

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

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

22 (a) allow the qualified patient's  
23 medical use of cannabis;

24 (b) serve as the qualified patient's  
25 primary caregiver; and

.169433.2

1 (c) control the dosage and the frequency  
2 of the medical use of cannabis by the qualified patient.

3 D. A qualified patient or a primary caregiver shall  
4 be granted the full legal protections provided in this section  
5 if the patient or caregiver is in possession of a registry  
6 identification card. If the qualified patient or primary  
7 caregiver is not in possession of a registry identification  
8 card, the patient or caregiver shall be given an opportunity to  
9 produce the registry identification card before any arrest or  
10 criminal charges or other penalties are initiated.

11 E. A practitioner shall not be subject to arrest or  
12 prosecution, penalized in any manner or denied any right or  
13 privilege for recommending the medical use of cannabis or  
14 providing written certification for the medical use of cannabis  
15 pursuant to the Lynn and Erin Compassionate Use Act.

16 F. A licensed producer shall not be subject to  
17 arrest, prosecution or penalty, in any manner, for the  
18 production, possession, distribution or dispensing of cannabis  
19 pursuant to the Lynn and Erin Compassionate Use Act.

20 G. Any property interest that is possessed, owned  
21 or used in connection with the medical use of cannabis, or acts  
22 incidental to such use, shall not be harmed, neglected, injured  
23 or destroyed while in the possession of state or local law  
24 enforcement officials. Any such property interest shall not be  
25 forfeited under any state or local law providing for the

.169433.2

1 forfeiture of property except as provided in the Forfeiture  
2 Act. Cannabis, paraphernalia or other property seized from a  
3 qualified patient or primary caregiver in connection with the  
4 claimed medical use of cannabis shall be returned immediately  
5 upon the determination by a court or prosecutor that the  
6 qualified patient or primary caregiver is entitled to the  
7 protections of the provisions of the Lynn and Erin  
8 Compassionate Use Act, as may be evidenced by a failure to  
9 actively investigate the case, a decision not to prosecute, the  
10 dismissal of charges or acquittal.

11 H. A person shall not be subject to arrest or  
12 prosecution for a cannabis-related offense for simply being in  
13 the presence of the medical use of cannabis as permitted under  
14 the provisions of the Lynn and Erin Compassionate Use Act.

15 Section 5. [NEW MATERIAL] PROHIBITIONS, RESTRICTIONS AND  
16 LIMITATIONS ON THE MEDICAL USE OF CANNABIS--CRIMINAL  
17 PENALTIES.--

18 A. Participation in a medical use of cannabis  
19 program by a qualified patient or primary caregiver does not  
20 relieve the qualified patient or primary caregiver from:

21 (1) criminal prosecution or civil penalties  
22 for activities not authorized in the Lynn and Erin  
23 Compassionate Use Act;

24 (2) liability for damages or criminal  
25 prosecution arising out of the operation of a vehicle while

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1 under the influence of cannabis; or

2 (3) criminal prosecution or civil penalty for  
3 possession or use of cannabis:

4 (a) in a school bus or public vehicle;

5 (b) on school grounds or property;

6 (c) in the workplace of the qualified  
7 patient's or primary caregiver's employment; or

8 (d) at a public park, recreation center,  
9 youth center or other public place.

10 B. A person who makes a fraudulent representation  
11 to a law enforcement officer about the person's participation  
12 in a medical use of cannabis program to avoid arrest or  
13 prosecution for a cannabis-related offense is guilty of a petty  
14 misdemeanor and shall be sentenced in accordance with the  
15 provisions of Section 31-19-1 NMSA 1978.

16 C. If a licensed producer sells, distributes,  
17 dispenses or transfers cannabis to a person not approved by the  
18 department pursuant to the Lynn and Erin Compassionate Use Act  
19 or obtains or transports cannabis outside New Mexico in  
20 violation of federal law, the licensed producer shall be  
21 subject to arrest, prosecution and civil or criminal penalties  
22 pursuant to state law.

23 Section 6. [NEW MATERIAL] ADVISORY BOARD CREATED--  
24 DUTIES.--The secretary of health shall establish an advisory  
25 board consisting of eight practitioners representing the fields  
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1 of neurology, pain management, medical oncology, psychiatry,  
2 infectious disease, family medicine and gynecology. The  
3 practitioners shall be nationally board-certified in their area  
4 of specialty and knowledgeable about the medical use of  
5 cannabis. The members shall be chosen for appointment by the  
6 secretary from a list proposed by the New Mexico medical  
7 society. A quorum of the advisory board shall consist of three  
8 members. The advisory board shall:

9 A. review and recommend to the department for  
10 approval additional debilitating medical conditions that would  
11 benefit from the medical use of cannabis;

12 B. accept and review petitions to add medical  
13 conditions, medical treatments or diseases to the list of  
14 debilitating medical conditions that qualify for the medical  
15 use of cannabis;

16 C. convene at least twice per year to conduct  
17 public hearings and to evaluate petitions, which shall be  
18 maintained as confidential personal health information, to add  
19 medical conditions, medical treatments or diseases to the list  
20 of debilitating medical conditions that qualify for the medical  
21 use of cannabis;

22 D. issue recommendations concerning rules to be  
23 promulgated for the issuance of the registry identification  
24 cards; and

25 E. recommend quantities of cannabis that are

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1 necessary to constitute an adequate supply for qualified  
2 patients and primary caregivers.

3 Section 7. [NEW MATERIAL] REGISTRY IDENTIFICATION CARDS--  
4 DEPARTMENT RULES--DUTIES.--

5 A. No later than October 1, 2007, and after  
6 consultation with the advisory board, the department shall  
7 promulgate rules in accordance with the State Rules Act to  
8 implement the purpose of the Lynn and Erin Compassionate Use  
9 Act. The rules shall:

10 (1) govern the manner in which the department  
11 will consider applications for registry identification cards  
12 and for the renewal of identification cards for qualified  
13 patients and primary caregivers;

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

17 (3) identify criteria and set forth procedures  
18 for including additional medical conditions, medical treatments  
19 or diseases to the list of debilitating medical conditions that  
20 qualify for the medical use of cannabis. Procedures shall  
21 include a petition process and shall allow for public comment  
22 and public hearings before the advisory board;

23 (4) set forth additional medical conditions,  
24 medical treatments or diseases to the list of debilitating  
25 medical conditions that qualify for the medical use of cannabis

.169433.2

1 as recommended by the advisory board;

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

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

7 (a) cannabis production facilities  
8 within New Mexico housed on secured grounds and operated by  
9 licensed producers; and

10 (b) distribution of medical cannabis to  
11 qualified patients or their primary caregivers to take place at  
12 locations designated by the department;

13 (7) determine additional duties and  
14 responsibilities of the advisory board; and

15 (8) be revised and updated as necessary.

16 B. The department shall issue registry  
17 identification cards to a patient and to the primary caregiver  
18 for that patient, if any, who submit the following, in  
19 accordance with the department's rules:

20 (1) a written certification;  
21 (2) the name, address and date of birth of the  
22 patient;

23 (3) the name, address and telephone number of  
24 the patient's practitioner; and

25 (4) the name, address and date of birth of the

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1 patient's primary caregiver, if any.

2 C. The department shall verify the information  
3 contained in an application submitted pursuant to Subsection B  
4 of this section and shall approve or deny an application within  
5 thirty days of receipt. The department may deny an application  
6 only if the applicant did not provide the information required  
7 pursuant to Subsection B of this section or if the department  
8 determines that the information provided is false. A person  
9 whose application has been denied shall not reapply for six  
10 months from the date of the denial unless otherwise authorized  
11 by the department.

12 D. The department shall issue a registry  
13 identification card within five days of approving an  
14 application, and a card shall expire one year after the date of  
15 issuance. A registry identification card shall contain:

16 (1) the name, address and date of birth of the  
17 qualified patient and primary caregiver, if any;

18 (2) the date of issuance and expiration date  
19 of the registry identification card; and

20 (3) other information that the department may  
21 require by rule.

22 E. A person who possesses a registry identification  
23 card shall notify the department of any change in the person's  
24 name, address, qualified patient's practitioner, qualified  
25 patient's primary caregiver or change in status of the

.169433.2

1 qualified patient's debilitating medical condition within ten  
2 days of the change.

3 F. Possession of or application for a registry  
4 identification card shall not constitute probable cause or give  
5 rise to reasonable suspicion for a governmental agency to  
6 search the person or property of the person possessing or  
7 applying for the card.

8 G. The department shall maintain a confidential  
9 file containing the names and addresses of the persons who have  
10 either applied for or received a registry identification card.  
11 Individual names on the list shall be confidential and not  
12 subject to disclosure, except:

13 (1) to authorized employees or agents of the  
14 department as necessary to perform the duties of the department  
15 pursuant to the provisions of the Lynn and Erin Compassionate  
16 Use Act;

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

21 (3) as provided in the federal Health  
22 Insurance Portability and Accountability Act of 1996.

23 Section 8. Section 30-31-6 NMSA 1978 (being Laws 1972,  
24 Chapter 84, Section 6, as amended) is amended to read:

25 "30-31-6. SCHEDULE I.--The following controlled

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1 substances are included in Schedule I:

2 A. any of the following opiates, including their  
3 isomers, esters, ethers, salts, and salts of isomers, esters  
4 and ethers, unless specifically exempted, whenever the  
5 existence of these isomers, esters, ethers and salts is  
6 possible within the specific chemical designation:

- 7 (1) acetylmethadol;  
8 (2) allylprodine;  
9 (3) alphacetylmethadol;  
10 (4) alphameprodine;  
11 (5) alphamethadol;  
12 (6) benzethidine;  
13 (7) betacetylmethadol;  
14 (8) betameprodine;  
15 (9) betamethadol;  
16 (10) betaprodine;  
17 (11) clonitazene;  
18 (12) dextromoramide;  
19 (13) dextrorphan;  
20 (14) diampromide;  
21 (15) diethylthiambutene;  
22 (16) dimenoxadol;  
23 (17) dimepheptanol;  
24 (18) dimethylthiambutene;  
25 (19) dioxaphetyl butyrate;

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- 1 (20) dipipanone;
- 2 (21) ethylmethylthiambutene;
- 3 (22) etonitazene;
- 4 (23) etoxeridine;
- 5 (24) furethidine;
- 6 (25) hydroxypethidine;
- 7 (26) ketobemidone;
- 8 (27) levomoramide;
- 9 (28) levophenacymorphan;
- 10 (29) morpheridine;
- 11 (30) noracymethadol;
- 12 (31) norlevorphanol;
- 13 (32) normethadone;
- 14 (33) norpipanone;
- 15 (34) phenadoxone;
- 16 (35) phenampromide;
- 17 (36) phenomorphan;
- 18 (37) phenoperidine;
- 19 (38) piritramide;
- 20 (39) proheptazine;
- 21 (40) properidine;
- 22 (41) racemoramide; and
- 23 (42) trimeperidine;

24 B. any of the following opium derivatives, their  
25 salts, isomers and salts of isomers, unless specifically

1 exempted, whenever the existence of these salts, isomers and  
2 salts of isomers is possible within the specific chemical  
3 designation:

- 4 (1) acetorphine;
- 5 (2) acetyldihydrocodeine;
- 6 (3) benzylmorphine;
- 7 (4) codeine methylbromide;
- 8 (5) codeine-N-oxide;
- 9 (6) cyprenorphine;
- 10 (7) desomorphine;
- 11 (8) dihydromorphine;
- 12 (9) etorphine;
- 13 (10) heroin;
- 14 (11) hydromorphinol;
- 15 (12) methyldesorphine;
- 16 (13) methyldihydromorphine;
- 17 (14) morphine methylbromide;
- 18 (15) morphine methylsulfonate;
- 19 (16) morphine-N-oxide;
- 20 (17) myrophine;
- 21 (18) nicocodeine;
- 22 (19) nicomorphine;
- 23 (20) normorphine;
- 24 (21) pholcodine; and
- 25 (22) thebacon;

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1 C. any material, compound, mixture or preparation  
2 [~~which~~] that contains any quantity of the following  
3 hallucinogenic substances, their salts, isomers and salts of  
4 isomers, unless specifically exempted, whenever the existence  
5 of these salts, isomers and salts of isomers is possible within  
6 the specific chemical designation:

- 7 (1) 3,4-methylenedioxy amphetamine;
- 8 (2) 5-methoxy-3,4-methylenedioxy amphetamine;
- 9 (3) 3,4,5-trimethoxy amphetamine;
- 10 (4) bufotenine;
- 11 (5) diethyltryptamine;
- 12 (6) dimethyltryptamine;
- 13 (7) 4-methyl-2,5-dimethoxy amphetamine;
- 14 (8) ibogaine;
- 15 (9) lysergic acid diethylamide;
- 16 (10) marijuana;
- 17 (11) mescaline;
- 18 (12) peyote, except as otherwise provided in  
19 the Controlled Substances Act;
- 20 (13) N-ethyl-3-piperidyl benzilate;
- 21 (14) N-methyl-3-piperidyl benzilate;
- 22 (15) psilocybin;
- 23 (16) psilocyn;
- 24 (17) tetrahydrocannabinols; and
- 25 (18) hashish;

1           D. the enumeration of peyote as a controlled  
 2 substance does not apply to the use of peyote in bona fide  
 3 religious ceremonies by a bona fide religious organization, and  
 4 members of the organization so using peyote are exempt from  
 5 registration. Any person who manufactures peyote for or  
 6 distributes peyote to the organization or its members shall  
 7 comply with the federal Comprehensive Drug Abuse Prevention and  
 8 Control Act of 1970 and all other requirements of law;

9           E. the enumeration of marijuana,  
 10 tetrahydrocannabinols or chemical derivatives of  
 11 tetrahydrocannabinol as Schedule I controlled substances does  
 12 not apply to the use of marijuana, tetrahydrocannabinols or  
 13 chemical derivatives of tetrahydrocannabinol by certified  
 14 patients pursuant to the Controlled Substances Therapeutic  
 15 Research Act or by qualified patients pursuant to the  
 16 provisions of the Lynn and Erin Compassionate Use Act; and

17           F. controlled substances added to Schedule I by  
 18 rule adopted by the board pursuant to Section 30-31-3 NMSA  
 19 1978."

20           Section 9. Section 30-31-7 NMSA 1978 (being Laws 1972,  
 21 Chapter 84, Section 7, as amended) is amended to read:

22           "30-31-7. SCHEDULE II.--

23           A. The following controlled substances are included  
 24 in Schedule II:

25           (1) any of the following substances, except  
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1 those narcotic drugs listed in other schedules, whether  
2 produced directly or indirectly by extraction from substances  
3 of vegetable origin, or independently by means of chemical  
4 synthesis, or by combination of extraction and chemical  
5 synthesis:

6 (a) opium and opiate, and any salt,  
7 compound, derivative or preparation of opium or opiate;

8 (b) any salt, compound, isomer,  
9 derivative or preparation thereof [~~which~~] that is chemically  
10 equivalent or identical with any of the substances referred to  
11 in Subparagraph (a) of this paragraph, but not including the  
12 isoquinoline alkaloids of opium;

13 (c) opium poppy and poppy straw;

14 (d) coca leaves and any salt, compound,  
15 derivative or preparation of coca leaves, and any salt,  
16 compound, derivative or preparation thereof [~~which~~] that is  
17 chemically equivalent or identical with any of these  
18 substances, but not including decocainized coca leaves or  
19 extractions [~~which~~] that do not contain cocaine or ecgonine;

20 (e) marijuana, but only for the use by  
21 certified patients pursuant to the Controlled Substances  
22 Therapeutic Research Act or by qualified patients pursuant to  
23 the provisions of the Lynn and Erin Compassionate Use Act; and

24 (f) tetrahydrocannabinols or chemical  
25 derivatives of tetrahydrocannabinol, but only for the use [~~of~~]

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1 by certified patients pursuant to the Controlled Substances  
2 Therapeutic Research Act or by qualified patients pursuant to  
3 the provisions of the Lynn and Erin Compassionate Use Act.

4 Marijuana, tetrahydrocannabinols or chemical derivatives  
5 of tetrahydrocannabinol shall be considered Schedule II  
6 controlled substances only for the purposes enumerated in the  
7 Controlled Substances Therapeutic Research Act or the Lynn and  
8 Erin Compassionate Use Act;

9 (2) any of the following opiates, including  
10 their isomers, esters, ethers, salts and salts of isomers,  
11 whenever the existence of these isomers, esters, ethers and  
12 salts is possible within the specific chemical designation:

- 13 (a) alphaprodine;
- 14 (b) anileridine;
- 15 (c) bezitramide;
- 16 (d) dihydrocodeine;
- 17 (e) diphenoxylate;
- 18 (f) fentanyl;
- 19 (g) hydromorphone;
- 20 (h) isomethadone;
- 21 (i) levomethorphan;
- 22 (j) levorphanol;
- 23 (k) meperidine;
- 24 (l) metazocine;
- 25 (m) methadone;

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1 (n) methadone--intermediate, 4-cyano-2-  
2 dimethylamino-4, 4-diphenyl butane;

3 (o) moramide--intermediate, 2-methyl-3-  
4 morpholino-1, 1-diphenyl-propane-carboxylic acid;

5 (p) oxycodone;

6 (q) pethidine;

7 (r) pethidine--intermediate--A, 4-cyano-  
8 1-methyl-4-phenylpiperidine;

9 (s) pethidine--intermediate--B, ethyl-4-  
10 phenyl-piperidine-4-carboxylate;

11 (t) pethidine--intermediate--C, 1-  
12 methyl-4-phenylpiperidine-4-carboxylic acid;

13 (u) phenazocine;

14 (v) piminodine;

15 (w) racemethorphan; and

16 (x) racemorphan;

17 (3) unless listed in another schedule, any  
18 material, compound, mixture or preparation [~~which~~] that  
19 contains any quantity of the following substances having a  
20 potential for abuse associated with a stimulant effect on the  
21 central nervous system:

22 (a) amphetamine, its salts, optical  
23 isomers and salts of its optical isomers;

24 (b) phenmetrazine and its salts;

25 (c) methamphetamine, its salts, isomers

1 and salts of isomers; and

2 (d) methylphenidate; and

3 (4) controlled substances added to Schedule II  
4 by rule adopted by the board pursuant to Section 30-31-3 NMSA  
5 1978.

6 B. Where methadone is prescribed, administered or  
7 dispensed by a practitioner of a drug abuse rehabilitation  
8 program while acting in the course of [~~his~~] the practitioner's  
9 professional practice, or otherwise lawfully obtained or  
10 possessed by a person, such person shall not possess such  
11 methadone beyond the date stamped or typed on the label of the  
12 container of the methadone, nor shall any person possess  
13 methadone except in the container in which it was originally  
14 administered or dispensed to such person, and such container  
15 shall include a label showing the name of the prescribing  
16 physician or practitioner, the identity of methadone, the name  
17 of the ultimate user, the date when the methadone is to be  
18 administered to or used or consumed by the named ultimate user  
19 shown on the label and a warning on the label of the methadone  
20 container that the ultimate user must use, consume or  
21 administer to [~~himself~~] the ultimate user the methadone in such  
22 container. Any person who violates this subsection is guilty  
23 of a felony and shall be punished by imprisonment for not less  
24 than one year nor more than five years, or by a fine of up to  
25 five thousand dollars (\$5,000), or both."

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1           Section 10. TEMPORARY PROVISION.--

2           A. During the period between July 1, 2007 and  
3 thirty days after the effective date of rules promulgated by  
4 the department of health pursuant to Subsection A of Section 7  
5 of the Lynn and Erin Compassionate Use Act, a person who would  
6 be eligible to participate in the medical use of cannabis  
7 program as a qualified patient, but for the lack of effective  
8 rules concerning registry identification cards, licensed  
9 producers, cannabis production facilities, distribution system  
10 and adequate supply, may obtain a written certification from a  
11 practitioner and upon presentation of that certification to the  
12 department of health, the department shall issue a temporary  
13 certification for participation in the program. The department  
14 of health shall maintain a list of all temporary certificates  
15 issued pursuant to this section.

16           B. A person possessing a temporary certificate and  
17 the person's primary caregiver are not subject to arrest,  
18 prosecution, civil or criminal penalty or denial of any right  
19 or privilege for possessing cannabis if the amount of cannabis  
20 possessed collectively is not more than the amount that is  
21 specified on the temporary certificate issued by the department  
22 of health.

23           C. A practitioner shall not be subject to arrest or  
24 prosecution, penalized in any manner or denied any right or  
25 privilege for recommending the medical use of cannabis or

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1 providing written certification for the medical use of cannabis  
2 pursuant to the Lynn and Erin Compassionate Use Act on or after  
3 July 1, 2007.

4 Section 11. SEVERABILITY.--If any part or application of  
5 the Lynn and Erin Compassionate Use Act is held invalid, the  
6 remainder or its application to other situations or persons  
7 shall not be affected. Failure to promulgate rules or  
8 implement any provision of the Lynn and Erin Compassionate Use  
9 Act shall not interfere with the remaining protections provided  
10 by that act.

11 Section 12. EFFECTIVE DATE.--The effective date of the  
12 provisions of this act is July 1, 2007.

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