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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETIETH SESSION

H. F. No. 4365

04/12/2018 Authored by Garofalo The bill was read for the first time and referred to the Committee on Health and Human Services Reform

1.1 A bill for an act
1.2 relating to health; authorizing visiting qualifying patients to enroll in medical
1.3 cannabis registry program; authorizing registration of nonresident designated
1.4 caregivers; establishing enrollment fees for visiting qualifying patients; amending
1.5 Minnesota Statutes 2016, sections 152.22, subdivision 14, by adding subdivisions;
1.6 152.27, subdivisions 2, 4; 152.35; proposing coding for new law in Minnesota
1.7 Statutes, chapter 152.

1.8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.9 Section 1. Minnesota Statutes 2016, section 152.22, is amended by adding a subdivision
1.10 to read:

1.11 Subd. 8a. Nonresident designated caregiver. "Nonresident designated caregiver" means
1.12 a person who:

1.13 (1) is at least 21 years old;

1.14 (2) does not have a conviction for a disqualifying felony offense;

1.15 (3) resides in Iowa and has been approved by the commissioner to assist a visiting
1.16 qualifying patient who has been identified by a person with authority to make such
1.17 determinations under the laws of Iowa as developmentally or physically disabled and
1.18 therefore unable to self-administer medication or acquire medical cannabis from a distribution
1.19 facility due to the disability; and

1.20 (4) is authorized by the commissioner to assist the visiting qualifying patient with the
1.21 use of medical cannabis.

2.1 Sec. 2. Minnesota Statutes 2016, section 152.22, subdivision 14, is amended to read:

2.2 Subd. 14. **Qualifying medical condition.** (a) For patients, "qualifying medical condition"
2.3 means a diagnosis of any of the following conditions:

2.4 (1) cancer, if the underlying condition or treatment produces one or more of the following:

2.5 (i) severe or chronic pain;

2.6 (ii) nausea or severe vomiting; or

2.7 (iii) cachexia or severe wasting;

2.8 (2) glaucoma;

2.9 (3) human immunodeficiency virus or acquired immune deficiency syndrome;

2.10 (4) Tourette's syndrome;

2.11 (5) amyotrophic lateral sclerosis;

2.12 (6) seizures, including those characteristic of epilepsy;

2.13 (7) severe and persistent muscle spasms, including those characteristic of multiple
2.14 sclerosis;

2.15 (8) inflammatory bowel disease, including Crohn's disease;

2.16 (9) terminal illness, with a probable life expectancy of under one year, if the illness or
2.17 its treatment produces one or more of the following:

2.18 (i) severe or chronic pain;

2.19 (ii) nausea or severe vomiting; or

2.20 (iii) cachexia or severe wasting; or

2.21 (10) any other medical condition or its treatment approved by the commissioner.

2.22 (b) For visiting qualifying patients, "qualifying medical condition" means a diagnosis
2.23 of a medical condition:

2.24 (1) that is listed in paragraph (a) or added by the commissioner according to section
2.25 152.27, subdivision 2, paragraph (b); and

2.26 (2) for which the possession and use of medical cannabis is authorized under the laws
2.27 of Iowa.

3.1 Sec. 3. Minnesota Statutes 2016, section 152.22, is amended by adding a subdivision to
3.2 read:

3.3 Subd. 15. Visiting qualifying patient. "Visiting qualifying patient" means a person who
3.4 is a resident of Iowa and has been diagnosed with a qualifying medical condition, as that
3.5 term is defined in subdivision 14, paragraph (b), by a person with authority to make such
3.6 diagnoses under the laws of Iowa.

3.7 Sec. 4. Minnesota Statutes 2016, section 152.27, subdivision 2, is amended to read:

3.8 Subd. 2. **Commissioner duties.** (a) The commissioner shall:

3.9 (1) give notice of the program to health care practitioners in the state who are eligible
3.10 to serve as health care practitioners and explain the purposes and requirements of the
3.11 program;

3.12 (2) allow each health care practitioner who meets or agrees to meet the program's
3.13 requirements and who requests to participate, to be included in the registry program to
3.14 collect data for the patient registry;

3.15 (3) provide explanatory information and assistance to each health care practitioner in
3.16 understanding the nature of therapeutic use of medical cannabis within program requirements;

3.17 (4) create and provide a certification to be used by a health care practitioner for the
3.18 practitioner to certify whether a patient has been diagnosed with a qualifying medical
3.19 condition and include in the certification an option for the practitioner to certify whether
3.20 the patient, in the health care practitioner's medical opinion, is developmentally or physically
3.21 disabled and, as a result of that disability, the patient is unable to self-administer medication
3.22 or acquire medical cannabis from a distribution facility;

3.23 (5) supervise the participation of the health care practitioner in conducting patient
3.24 treatment and health records reporting in a manner that ensures stringent security and
3.25 record-keeping requirements and that prevents the unauthorized release of private data on
3.26 individuals as defined by section 13.02;

3.27 (6) develop safety criteria for patients with a qualifying medical condition as a
3.28 requirement of the patient's participation in the program, to prevent the patient from
3.29 undertaking any task under the influence of medical cannabis that would constitute negligence
3.30 or professional malpractice on the part of the patient; and

3.31 (7) conduct research and studies based on data from health records submitted to the
3.32 registry program and submit reports on intermediate or final research results to the legislature

4.1 and major scientific journals. The commissioner may contract with a third party to complete
 4.2 the requirements of this clause. Any reports submitted must comply with section 152.28,
 4.3 subdivision 2.

4.4 (b) If the commissioner wishes to add a delivery method under section 152.22, subdivision
 4.5 6, or a qualifying medical condition under section 152.22, subdivision 14, paragraph (a),
 4.6 the commissioner must notify the chairs and ranking minority members of the legislative
 4.7 policy committees having jurisdiction over health and public safety of the addition and the
 4.8 reasons for its addition, including any written comments received by the commissioner from
 4.9 the public and any guidance received from the task force on medical cannabis research, by
 4.10 January 15 of the year in which the commissioner wishes to make the change. The change
 4.11 shall be effective on August 1 of that year, unless the legislature by law provides otherwise.

4.12 Sec. 5. Minnesota Statutes 2016, section 152.27, subdivision 4, is amended to read:

4.13 Subd. 4. **Registered designated caregiver; nonresident designated caregiver.** (a) The
 4.14 commissioner shall register a designated caregiver for a patient if the patient's health care
 4.15 practitioner has certified that the patient, in the health care practitioner's medical opinion,
 4.16 is developmentally or physically disabled and, as a result of that disability, the patient is
 4.17 unable to self-administer medication or acquire medical cannabis from a distribution facility
 4.18 and the caregiver has agreed, in writing, to be the patient's designated caregiver. As a
 4.19 condition of registration as a designated caregiver, the commissioner shall require the person
 4.20 to:

4.21 (1) be at least 21 years of age;

4.22 (2) agree to only possess any medical cannabis for purposes of assisting the patient; and

4.23 (3) agree that if the application is approved, the person will not be a registered designated
 4.24 caregiver for more than one patient, unless the patients reside in the same residence.

4.25 (b) The commissioner shall conduct a criminal background check on the designated
 4.26 caregiver prior to registration to ensure that the person does not have a conviction for a
 4.27 disqualifying felony offense. Any cost of the background check shall be paid by the person
 4.28 seeking registration as a designated caregiver.

4.29 (c) The commissioner shall register a nonresident designated caregiver for a visiting
 4.30 qualifying patient if, in the medical opinion of a person authorized under Iowa law to make
 4.31 such determinations, the visiting qualifying patient is determined to be developmentally or
 4.32 physically disabled and, as a result of that disability, is unable to self-administer medication
 4.33 or acquire medical cannabis from a distribution facility and the caregiver has agreed, in

5.1 writing, to be the visiting qualifying patient's designated caregiver. A registered nonresident
 5.2 designated caregiver is subject to the requirements for registered designated caregivers
 5.3 under sections 152.22 to 152.37. The commissioner shall conduct a criminal background
 5.4 check on the nonresident designated caregiver before registration to ensure that the person
 5.5 does not have a conviction for a disqualifying felony offense. An applicant for registration
 5.6 as a nonresident designated caregiver must submit to the commissioner a completed criminal
 5.7 history records check consent form, a full set of classifiable fingerprints and photograph,
 5.8 and the criminal history records check fees required by the Bureau of Criminal Apprehension
 5.9 or other state or federal agency. The commissioner must complete a criminal history records
 5.10 check in Minnesota and in Iowa. With the applicant's consent, the commissioner is authorized
 5.11 to exchange fingerprints with the Federal Bureau of Investigation to obtain the applicant's
 5.12 national criminal history record information. Any cost for the background check shall be
 5.13 paid by the person seeking registration as a nonresident designated caregiver.

5.14 (d) If a nonresident designated caregiver changes the caregiver's principal place of
 5.15 residence, the nonresident designated caregiver shall notify the commissioner of the change
 5.16 in residence within 30 days of the change. Upon receiving notice of a change of a nonresident
 5.17 designated caregiver's principal place of residence, the commissioner may require the
 5.18 nonresident designated caregiver to reapply for registration under paragraph (c). A
 5.19 nonresident designated caregiver is subject to a \$100 fine for failure to notify the
 5.20 commissioner of the change.

5.21 **Sec. 6. [152.275] VISITING QUALIFYING PATIENTS; ENROLLMENT IN**
 5.22 **PATIENT REGISTRY PROGRAM.**

5.23 Subdivision 1. **Enrollment authorized.** The commissioner is authorized to enroll visiting
 5.24 qualifying patients in the registry program if the state of Iowa has enacted a law that allows
 5.25 Iowa residents to:

- 5.26 (1) possess and use medical cannabis for treatment of a qualifying medical condition;
 5.27 and
 5.28 (2) enroll as a visiting qualifying patient in Minnesota.

5.29 Subd. 2. **Definition.** For purposes of this section, "qualifying medical condition" has
 5.30 the meaning given in section 152.22, subdivision 14, paragraph (b).

5.31 Subd. 3. **Application of laws.** A visiting qualifying patient is afforded the same rights
 5.32 and is subject to the same requirements and responsibilities as a patient enrolled in the
 5.33 registry program, except as otherwise provided in sections 152.22 to 152.37.

6.1 Subd. 4. Registry program application; disclosure. (a) The commissioner shall develop
6.2 an application for visiting qualifying patients to enroll in the registry program. The application
6.3 must include:

6.4 (1) the name, mailing address, and date of birth of the visiting qualifying patient;

6.5 (2) the name, mailing address, and telephone number of the person who diagnosed the
6.6 visiting qualifying patient with a qualifying medical condition in compliance with Iowa
6.7 law;

6.8 (3) the name, mailing address, and date of birth of the visiting qualifying patient's
6.9 nonresident designated caregiver, if any, or the visiting qualifying patient's parent or legal
6.10 guardian if the parent or legal guardian will act as caregiver;

6.11 (4) a copy of the certification from the person who diagnosed the visiting qualifying
6.12 patient with a qualifying medical condition in compliance with Iowa law, dated within 90
6.13 days before submission of the application, that certifies that the visiting qualifying patient
6.14 has been diagnosed with a qualifying medical condition and, if applicable, that in the medical
6.15 opinion of a person authorized under Iowa law to make such determinations, the visiting
6.16 qualifying patient is developmentally or physically disabled and, as a result of that disability,
6.17 is unable to self-administer medication or acquire medical cannabis from a distribution
6.18 facility; and

6.19 (5) all other signed affidavits and enrollment forms required by the commissioner under
6.20 sections 152.22 to 152.37, including the disclosure form required under paragraph (b).

6.21 (b) The commissioner shall develop a disclosure form for visiting qualifying patients
6.22 and require, as a condition of enrollment, all visiting qualifying patients to sign a copy of
6.23 the disclosure. The disclosure must include:

6.24 (1) the information required in section 152.27, subdivision 3, paragraph (c); and

6.25 (2) the visiting qualifying patient's acknowledgment that if the visiting qualifying patient
6.26 leaves Minnesota for any destination other than the state of Iowa with medical cannabis
6.27 obtained in Minnesota or a medical cannabis product obtained in Minnesota, such action
6.28 may violate federal law.

6.29 Subd. 5. Procedure for enrollment of visiting qualifying patient. (a) After receipt of
6.30 a visiting qualifying patient's application, application fees, and signed disclosure, the
6.31 commissioner shall determine by inquiry to the relevant state agency in Iowa whether the
6.32 visiting qualifying patient has a qualifying medical condition under Iowa law and whether
6.33 the visiting qualifying patient is registered in Iowa for the authorized use and possession of

7.1 medical cannabis. Upon a determination by the commissioner that the visiting qualifying
7.2 patient has a qualifying medical condition under Iowa law, is registered in Iowa for the
7.3 authorized use and possession of medical cannabis, and otherwise satisfies the requirements
7.4 for visiting qualifying patients, the commissioner shall enroll the visiting qualifying patient
7.5 in the registry program and issue the visiting qualifying patient and nonresident designated
7.6 caregiver, if applicable, a registry verification. The commissioner shall approve or deny a
7.7 visiting qualifying patient's application for participation in the registry program within ten
7.8 business days after the commissioner receives the visiting qualifying patient's application
7.9 and application fees and conducts the inquiry with the relevant state agency in Iowa.

7.10 (b) A visiting qualifying patient's enrollment in the registry program shall be denied
7.11 only:

7.12 (1) for the reasons listed in section 152.27, subdivision 6, paragraph (a), clause (3), (4),
7.13 or (5);

7.14 (2) if the visiting qualifying patient does not have a certification of diagnosis of a
7.15 qualifying medical condition from the person who diagnosed the visiting qualifying patient
7.16 with a qualifying medical condition;

7.17 (3) if the visiting qualifying patient has not signed and returned the disclosure form
7.18 required under subdivision 4, paragraph (b); or

7.19 (4) if the visiting qualifying patient fails to satisfy one or more of the requirements for
7.20 enrollment in paragraph (a).

7.21 Subd. 6. **Revocation of enrollment.** A visiting qualifying patient's enrollment in the
7.22 registry program may be revoked only upon the death of the visiting qualifying patient, if
7.23 the visiting qualifying patient violates an applicable requirement under section 152.30 or
7.24 152.33, or if the visiting qualifying patient violates an Iowa law related to the use or
7.25 possession of medical cannabis.

7.26 Subd. 7. **Notice requirements.** If a visiting qualifying patient changes the patient's
7.27 principal place of residence, the visiting qualifying patient shall notify the commissioner
7.28 of the change in residence within 30 days of the change. Upon receiving notice of a change
7.29 of a visiting qualifying patient's principal place of residence, the commissioner may require
7.30 the visiting qualifying patient to submit a new application under subdivision 4. A visiting
7.31 qualifying patient is subject to a \$100 fine for failure to notify the commissioner of the
7.32 change.

8.1 Subd. 8. Fees. The commissioner shall collect an enrollment fee of \$200 from visiting
8.2 qualifying patients enrolled under this section. The fee is payable annually and is due on
8.3 the anniversary date of the visiting qualifying patient's enrollment. The fee amount shall be
8.4 deposited in the state treasury and credited to the state government special revenue fund.

8.5 Sec. 7. Minnesota Statutes 2016, section 152.35, is amended to read:

8.6 **152.35 FEES; DEPOSIT OF REVENUE.**

8.7 (a) The commissioner shall collect an enrollment fee of \$200 from patients enrolled
8.8 under this section. If the patient is a Minnesota resident and attests to receiving Social
8.9 Security disability, Supplemental Security Insurance payments, or being enrolled in medical
8.10 assistance or MinnesotaCare, then the fee shall be \$50. The fees shall be payable annually
8.11 and are due on the anniversary date of the patient's enrollment. The fee amount shall be
8.12 deposited in the state treasury and credited to the state government special revenue fund.

8.13 (b) The commissioner shall collect an application fee of \$20,000 from each entity
8.14 submitting an application for registration as a medical cannabis manufacturer. Revenue
8.15 from the fee shall be deposited in the state treasury and credited to the state government
8.16 special revenue fund.

8.17 (c) The commissioner shall establish and collect an annual fee from a medical cannabis
8.18 manufacturer equal to the cost of regulating and inspecting the manufacturer in that year.
8.19 Revenue from the fee amount shall be deposited in the state treasury and credited to the
8.20 state government special revenue fund.

8.21 (d) A medical cannabis manufacturer may charge patients enrolled in the registry program
8.22 a reasonable fee for costs associated with the operations of the manufacturer. The
8.23 manufacturer may establish a sliding scale of patient fees based upon a patient's household
8.24 income and may accept private donations to reduce patient fees.