

CHAPTER 1125
MEDICAL CANNABIDIOL
S.F. 2360

AN ACT creating the medical cannabidiol Act and providing penalties.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 124.401, subsection 5, Code 2014, is amended by adding the following new unnumbered paragraph after unnumbered paragraph 2:

NEW UNNUMBERED PARAGRAPH. A person may knowingly or intentionally recommend, possess, use, dispense, deliver, transport, or administer cannabidiol if the recommendation, possession, use, dispensing, delivery, transporting, or administering is in accordance with the provisions of chapter 124D. For purposes of this paragraph, “cannabidiol” means the same as defined in section 124D.2.

Sec. 2. NEW SECTION. 124D.1 Short title.

This chapter shall be known and may be cited as the “*Medical Cannabidiol Act*”.

Sec. 3. NEW SECTION. 124D.2 Definitions.

As used in this chapter:

1. “*Cannabidiol*” means a nonpsychoactive cannabinoid found in the plant *Cannabis sativa* L. or *Cannabis indica* or any other preparation thereof that is essentially free from plant material, and has a tetrahydrocannabinol level of no more than three percent.

2. “*Department*” means the department of public health.

3. “*Intractable epilepsy*” means an epileptic seizure disorder for which standard medical treatment does not prevent or significantly ameliorate recurring, uncontrolled seizures or for which standard medical treatment results in harmful side effects.

4. “*Neurologist*” means an allopathic or osteopathic physician board-certified in neurology in good standing and licensed under chapter 148.

5. “*Primary caregiver*” means a person, at least eighteen years of age, who has been designated by a patient’s neurologist or a person having custody of a patient, as being necessary to take responsibility for managing the well-being of the patient with respect to the medical use of cannabidiol pursuant to the provisions of this chapter.

Sec. 4. NEW SECTION. 124D.3 Neurologist recommendation — medical use of cannabidiol.

A neurologist who has examined and treated a patient suffering from intractable epilepsy may provide but has no duty to provide a written recommendation for the patient’s medical use of cannabidiol to treat or alleviate symptoms of intractable epilepsy if no other satisfactory alternative treatment options exist for the patient and all of the following conditions apply:

1. The patient is a permanent resident of this state.

2. A neurologist has treated the patient for intractable epilepsy for at least six months. For purposes of this treatment period, and notwithstanding section 124D.2, subsection 4, treatment provided by a neurologist may include treatment by an out-of-state licensed neurologist in good standing.

3. The neurologist has tried alternative treatment options that have not alleviated the patient’s symptoms.

4. The neurologist determines the risks of recommending the medical use of cannabidiol are reasonable in light of the potential benefit for the patient.

5. The neurologist maintains a patient treatment plan.

Sec. 5. NEW SECTION. 124D.4 Cannabidiol registration card.

1. *Issuance to patient.* The department may approve the issuance of a cannabidiol registration card by the department of transportation to a patient who:

a. Is at least eighteen years of age.

b. Is a permanent resident of this state.

c. Requests the patient's neurologist to submit a written recommendation to the department signed by the neurologist that the patient may benefit from the medical use of cannabidiol pursuant to section 124D.3.

d. Submits an application to the department, on a form created by the department, in consultation with the department of transportation, that contains all of the following:

- (1) The patient's full name, Iowa residence address, date of birth, and telephone number.
- (2) A copy of the patient's valid photo identification.
- (3) Full name, address, and telephone number of the patient's neurologist.
- (4) Full name, residence address, date of birth, and telephone number of each primary caregiver of the patient, if any.
- (5) Any other information required by rule.

2. *Patient card contents.* A cannabidiol registration card issued to a patient by the department of transportation pursuant to subsection 1 shall contain, at a minimum, all of the following:

- a. The patient's full name, Iowa residence address, and date of birth.
- b. The patient's photo.
- c. The date of issuance and expiration date of the registration card.
- d. Any other information required by rule.

3. *Issuance to primary caregiver.* For a patient in a primary caregiver's care, the department may approve the issuance of a cannabidiol registration card by the department of transportation to the primary caregiver who:

- a. Is at least eighteen years of age.
- b. Requests a patient's neurologist to submit a written recommendation to the department signed by the neurologist that a patient in the primary caregiver's care may benefit from the medical use of cannabidiol pursuant to section 124D.3.

c. Submits an application to the department, on a form created by the department, in consultation with the department of transportation, that contains all of the following:

(1) The primary caregiver's full name, residence address, date of birth, and telephone number.

- (2) The patient's full name.
- (3) A copy of the primary caregiver's valid photo identification.
- (4) Full name, address, and telephone number of the patient's neurologist.
- (5) Any other information required by rule.

4. *Primary caregiver card contents.* A cannabidiol registration card issued by the department of transportation to a primary caregiver pursuant to subsection 3 shall contain, at a minimum, all of the following:

- a. The primary caregiver's full name, residence address, and date of birth.
- b. The primary caregiver's photo.
- c. The date of issuance and expiration date of the registration card.
- d. The full name of each patient in the primary caregiver's care.
- e. Any other information required by rule.

5. *Expiration date of card.* A cannabidiol registration card issued pursuant to this section shall expire one year after the date of issuance and may be renewed.

6. *Card issuance — department of transportation.* The department may enter into a chapter 28E agreement with the department of transportation to facilitate the issuance of a cannabidiol registration card pursuant to subsections 1 and 3.

Sec. 6. NEW SECTION. 124D.5 Department duties — rules.

1. a. The department shall maintain a confidential file of the names of each patient to or for whom the department issues a cannabidiol registration card and the name of each primary caregiver to whom the department issues a cannabidiol registration card under section 124D.4.

b. Individual names contained in the file shall be confidential and shall not be subject to disclosure, except as provided in subparagraph (1).

(1) Information in the confidential file maintained pursuant to paragraph "a" may be released to the following persons under the following circumstances:

(a) To authorized employees or agents of the department and the department of transportation as necessary to perform the duties of the department and the department of transportation pursuant to this chapter.

(b) To authorized employees of state or local law enforcement agencies, but only for the purpose of verifying that a person is lawfully in possession of a cannabidiol registration card issued pursuant to this chapter.

(2) Release of information pursuant to subparagraph (1) shall be consistent with the federal Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.

2. The department, in consultation with the department of transportation, shall adopt rules to administer this chapter which shall include but not be limited to rules to establish the manner in which the department shall consider applications for new and renewal cannabidiol registration cards.

Sec. 7. NEW SECTION. 124D.6 Medical use of cannabidiol — affirmative defense.

1. *a.* A recommendation for the possession or use of cannabidiol as authorized by this chapter shall be provided exclusively by a neurologist for a patient who has been diagnosed with intractable epilepsy.

b. Cannabidiol provided exclusively pursuant to the recommendation of a neurologist shall be obtained from an out-of-state source and shall only be recommended for oral or transdermal administration.

c. A neurologist shall be the sole authorized recommender as part of the treatment plan by the neurologist of a patient diagnosed with intractable epilepsy. A neurologist shall have the sole authority to recommend the use or amount of cannabidiol, if any, in the treatment plan of a patient diagnosed with intractable epilepsy.

2. A neurologist, including any authorized agent thereof, shall not be subject to prosecution for the unlawful recommendation, possession, or administration of marijuana under the laws of this state for activities arising directly out of or directly related to the recommendation or use of cannabidiol in the treatment of a patient diagnosed with intractable epilepsy.

3. *a.* In a prosecution for the unlawful possession of marijuana under the laws of this state, including but not limited to chapters 124 and 453B, it is an affirmative and complete defense to the prosecution that the patient has been diagnosed with intractable epilepsy, used or possessed cannabidiol pursuant to a recommendation by a neurologist as authorized under this chapter, and, for a patient eighteen years of age or older, is in possession of a valid cannabidiol registration card.

b. In a prosecution for the unlawful possession of marijuana under the laws of this state, including but not limited to chapters 124 and 453B, it is an affirmative and complete defense to the prosecution that the person possessed cannabidiol because the person is a primary caregiver of a patient who has been diagnosed with intractable epilepsy and is in possession of a valid cannabidiol registration card, and where the primary caregiver's possession of the cannabidiol is on behalf of the patient and for the patient's use only as authorized under this chapter.

c. (1) The defenses afforded a patient under paragraph "a" apply to a patient only if the quantity of cannabidiol oil possessed by the patient does not exceed thirty-two ounces.

(2) The defenses afforded a primary caregiver under paragraph "b" apply to a primary caregiver only if the quantity of cannabidiol oil possessed by the primary caregiver does not exceed thirty-two ounces per patient.

d. If a patient or primary caregiver is charged with the commission of a crime and is not in possession of the person's cannabidiol registration card, any charge or charges filed against the person shall be dismissed by the court if the person produces to the court at the person's trial a cannabidiol registration card issued to that person and valid at the time the person was charged.

4. An agency of this state or a political subdivision thereof, including any law enforcement agency, shall not remove or initiate proceedings to remove a patient under the age of eighteen from the home of a parent based solely upon the parent's or patient's possession or use of cannabidiol as authorized under this chapter.

Sec. 8. NEW SECTION. 124D.7 Penalties.

A person who knowingly or intentionally possesses or uses cannabidiol in violation of the requirements of this chapter is subject to the penalties provided under chapters 124 and 453B.

Sec. 9. NEW SECTION. **124D.8 Repeal.**

This chapter is repealed July 1, 2017.

Sec. 10. **REPORTS.** The university of Iowa carver college of medicine and college of pharmacy shall, on or before July 1 of each year, beginning July 1, 2015, submit a report detailing the scientific literature, studies, and clinical trials regarding the use of cannabidiol on patients diagnosed with intractable epilepsy to the department of public health and the general assembly.

Approved May 30, 2014