NMAC Transmittal Form

Volume: XXXI **Issue:** 12 **Publication date:** 6/23/2020 **Number of pages:** 8 **(ALD Use Only) Sequence No.** 94.6

Issuing agency name and address: Department of Health, P.O. Box 26110, Santa Fe, NM 87502-6110 **Agency DFA code:** 665

Contact person's name: Andrea Sundberg **Phone number:** 505) 827-2318 **E-mail address:** andrea.sundberg@state.nm.us

Type of rule action:

New ☐ **Amendment** ■ **Repeal** ☐ **Emergency** ☐ **Renumber** ☐

(ALD Use Only) Most recent filing date: 2/16/2015

Title number: 7 **Title name:** HEALTH

Chapter number: 34 **Chapter name:** MEDICAL USE OF CANNABIS

Part number: 3 **Part name:** REGISTRY IDENTIFICATION CARDS

Amendment description (If filing an amendment): Amended (1) Section

Amendment's NMAC citation (If filing an amendment): Section 7 of 7.34.3 NMAC

Are there any materials incorporated by reference?

Yes ☐ **No** X

Please list attachments or Internet sites if applicable.

If materials are attached, has copyright permission been received? **Yes** ☐ **No** ☐ **Public domain** ☐

Specific statutory or other authority authorizing rulemaking:

This rulemaking by the Secretary of the Department of Health is made in accordance with the following authorities: Sections 9-7-6, 26-2b-7, 26-2b-2, and 24-1-3 NMSA 1978.

Notice date(s): 10/15/2019 &12/17/2019 **Hearing date(s):** 11/22/2019 & 1/16/2020 **Rule adoption date:** 6/10/2020 **Rule effective date:** 6/23/2020

Concise Explanatory Statement For Rulemaking Adoption:

Findings required for rulemaking adoption:

Findings MUST include:

- Reasons for adopting rule, including any findings otherwise required by law of the agency, and a summary of any independent analysis done by the agency;
- Reasons for any change between the published proposed rule and the final rule; and
- Reasons for not accepting substantive arguments made through public comment.

The findings in support of this amendment are as stated in the attached Statement of Reasons for Adoption of the rule, which is hereby incorporated by reference.

Issuing authority (If delegated, authority letter must be on file with ALD):

Name: Kathyleen M. Kunkel

Check if authority has been delegated ☐

Title: Cabinet Secretary

Signature: (BLACK ink only) Kathyleen M Kunkel

Date signed: 6/10/2021

This is an amendment to 7.34.3 NMAC, Section 7 effective 6/23/2020.

7.34.3.7 DEFINITIONS:

[~~**A. "Act"** means the Lynn and Erin Compassionate Use Act, NMSA 1978, Sections 26-2B-1 through 26-2B-7.~~

~~**B. "Adequate supply"** means an amount of cannabis, derived solely from an intrastate source and in a form approved by the department, that is possessed by a qualified patient or collectively possessed by a qualified patient and the qualified patient's primary caregiver, that is determined by the department to be no more than reasonably necessary to ensure the uninterrupted availability of cannabis for a period of three months or 90 consecutive calendar days.~~

~~**C. "Administrative review committee"** means an intra-department committee that reviews qualified patient or primary caregiver application denials, licensed producer denials made by the program manager, or the summary suspension of a producer's license, in accordance with department rules. The administrative review committee shall consist of the chief medical officer of the department (or that's person's designee); a deputy secretary of the department (or that person's designee), and the chief nursing officer of the department (or that person's designee).~~

~~**D. "Administrative withdrawal"** means the procedure for the voluntary withdrawal of a qualified patient or primary caregiver from the medical cannabis program.~~

~~**E. "Advisory board"** means the medical cannabis advisory board consisting of nine practitioners knowledgeable about the medical use of cannabis, who are appointed by the secretary.~~

~~**F. "Applicant"** means any person applying for enrollment or re-enrollment in the medical cannabis program as a qualified patient, primary caregiver, or licensed producer.~~

~~**G. "Approved laboratory"** means a licensed cannabis testing facility as defined in the Lynn and Erin Compassionate Use Act, Subsection I of Section 26-2B-3 NMSA 1978 that has been approved by the department specifically for the testing of cannabis, concentrates, and cannabis derived products.~~

~~**H. "Batch"** means, with regard to usable cannabis, a homogenous, identified quantity of cannabis no greater than five pounds that is harvested during a specified time period from a specified cultivation area, and with regard to concentrated and cannabis-derived product, means an identified quantity that is uniform, that is intended to meet specifications for identity, strength, and composition, and that is manufactured, packaged, and labeled during a specified time period according to a single manufacturing, packaging, and labeling protocol.~~

~~**I. "Cannabidiol ("CBD")"** is a cannabinoid and the primary non-psychoactive ingredient found in cannabis.~~

~~**J. "Cannabis"** means all parts of the plant Cannabis sativa L. containing a delta-9-tetrahydrocannabinol concentration of more than three-tenths percent on a dry weight basis, whether growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or its resin; and does not include the mature stalks of the plant; fiber produced from the stalks; oil or cake made from the seeds of the plant; any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil or cake; the sterilized seed of the plant that is incapable of germination; the weight of any other ingredient combined with cannabis to prepare topical or oral administrations, food, drink or another product; or hemp.~~

~~**K. "Cannabis-derived product"** means a product, other than cannabis itself, which contains or is derived from cannabis, not including hemp.~~

~~**L. "Concentrated cannabis-derived product ("concentrate")"** means a cannabis-derived product that is manufactured by a mechanical or chemical process that separates any cannabinoid from the cannabis plant, and that contains (or that is intended to contain at the time of sale or distribution) no less than thirty-percent (30%) THC by weight.~~

~~**M. "Courier"** means a person or entity that transports usable cannabis within the state of New Mexico from a licensed non-profit producer to a qualified patient or primary caregiver, to another non-profit producer, to an approved laboratory, or to an approved manufacturer.~~

~~**N. "Debilitating medical condition"** means:~~

~~(1) cancer;~~

~~(2) glaucoma;~~

~~(3) multiple sclerosis;~~

~~(4) damage to the nervous tissue of the spinal cord, with objective neurological indication of intractable spasticity;~~

~~(5) epilepsy;~~

(6) positive status for human immunodeficiency virus or acquired immune deficiency syndrome;

(7) admission into hospice care in accordance with rules promulgated by the department;

(8) amyotrophic lateral sclerosis;

(9) Crohn's disease;

(10) hepatitis C infection;

(11) Huntington's disease;

(12) inclusion body myositis;

(13) inflammatory autoimmune-mediated arthritis;

(14) intractable nausea or vomiting;

(15) obstructive sleep apnea;

(16) painful peripheral neuropathy;

(17) Parkinson's disease;

(18) posttraumatic stress disorder;

(19) severe chronic pain;

(20) severe anorexia or cachexia;

(21) spasmodic torticollis;

(22) ulcerative colitis; or

(23) any other medical condition, medical treatment, or disease as approved by the department which results in pain, suffering, or debility for which there is credible evidence that medical use cannabis could be of benefit.

O. "Department" means the department of health or its agent.

P. "Facility" means any building, space, or grounds licensed for the production, possession, testing, manufacturing, or distribution of cannabis, concentrates, or cannabis-derived products.

Q. "Intrastate" means existing or occurring within the state boundaries of New Mexico.

R. "Laboratory applicant" means a laboratory that seeks to become an approved laboratory, or that seeks renewal of approval as an approved laboratory, in accordance with this rule.

S. "License" means the document issued by the department granting the legal right to produce medical cannabis for a specified period of time.

T. "Licensed producer" means a person or entity licensed to produce medical cannabis.

U. "Licensure" means the process by which the department grants permission to an applicant to produce cannabis.

V. "Lot" means an identified portion of a batch, that is uniform and that is intended to meet specifications for identity, strength, and composition; or, in the case of a cannabis-derived product or concentrate, an identified quantity produced in a specified period of time in a manner that is uniform and that is intended to meet specifications for identity, strength, and composition.

W. "Male plant" means a male cannabis plant.

X. "Manufacture" means to make or otherwise produce cannabis-derived product or concentrate.

Y. "Manufacturer" means a person that is licensed by the department to manufacture cannabis products; package, transport or courier cannabis products; have cannabis products tested by a cannabis testing facility; purchase, obtain, sell and transport cannabis products to other cannabis establishments; and prepare products for personal production license holders.

Z. "Mature female plant" means a harvestable female cannabis plant that is flowering.

AA. "Medical cannabis program" means the administrative body of the department charged with the management of the medical cannabis program and enforcement of program regulations, to include issuance of registry identification cards, licensing of producers, and regulation of manufacturing and distribution.

BB. "Medical cannabis program manager" means the administrator of the medical cannabis program who holds that title.

CC. "Medical director" means a medical practitioner designated by the department to determine whether the medical condition of an applicant qualifies as a debilitating medical condition eligible for enrollment in the program, and to perform other duties.

DD. "Medical provider certification for patient eligibility form" means a written certification form provided by the medical cannabis program signed by a patient's practitioner that, in the practitioner's professional opinion, the patient has a debilitating medical condition as defined by the act or this part and would be anticipated to benefit from the use of cannabis.

EE. "Minor" means an individual less than 18 years of age.

FF. "Non-profit producer" means a New Mexico corporation that has been designated as a non-profit corporation by the New Mexico Secretary of State, that has been licensed by the department to possess, produce, dispense, distribute and manufacture cannabis and cannabis products and sell wholesale or by direct sale to qualified patients and primary caregivers.

GG. "Paraphernalia" means any equipment, product, or material of any kind that is primarily intended or designed for use in compounding, converting, processing, preparing, inhaling, or otherwise introducing cannabis or its derivatives into the human body.

HH. "Patient enrollment/re-enrollment form" means the registry identification card application form for patient applicants provided by the medical cannabis program.

II. "Personal production license" means a license issued to a qualified patient or to a qualified patient's primary caregiver participating in the medical cannabis program to permit the qualified patient or the qualified patient's primary caregiver to produce cannabis for the qualified patient's use at an address approved by the department.

JJ. "Petitioner" means any New Mexico resident or association of New Mexico residents petitioning the advisory board for the inclusion of a new medical condition, medical treatment, or disease to be added to the list of debilitating medical conditions that qualify for the use of cannabis.

KK. "Plant" means any cannabis plant, cutting, or clone that has roots or that is cultivated with the intention of growing roots.

LL. "Policy" means a written statement of principles that guides and determines present and future decisions and actions of the licensed producer.

MM. "Practitioner" means a person licensed in New Mexico to prescribe and administer drugs that are subject to the Controlled Substances Act, Sections 30-31-1 *et seq.*, NMSA 1978.

NN. "Primary caregiver" means a resident of New Mexico who is at least 18 years of age and who has been designated by the qualified patient or their representative and the patient's practitioner as being necessary to take responsibility for managing the well-being of a qualified patient with respect to the medical use of cannabis pursuant to the provisions of the Lynn and Erin Compassionate Use Act, Section 26-2B-1 *et seq.*, NMSA 1978.

OO. "Primary caregiver application form" means the registry identification card application form provided by the medical cannabis program.

PP. "Private entity" means a private, non-profit organization that applies to become or is licensed as a producer and distributor of cannabis, concentrates, or cannabis-derived products.

QQ. "Proficiency testing" means testing conducted by the department or its agent to determine the ability of a laboratory applicant or approved laboratory to accurately identify presence, quantity, or other factors pertaining to a given analyte.

RR. "Qualified patient" means a resident of New Mexico who has been diagnosed by a practitioner as having a debilitating medical condition and has received a registry identification card issued pursuant to the requirements of the act or department rules.

SS. "Registry identification card" means a document issued and owned by the department which identifies a qualified patient authorized to engage in the use of cannabis for a debilitating medical condition or a document issued by the department which identifies a primary caregiver authorized to engage in the intrastate possession and administration of cannabis for the sole use of the qualified patient.

TT. "Representative" means an individual designated as the applicant's or petitioner's agent, guardian, surrogate, or other legally appointed or authorized health care decision maker.

UU. "Secretary" means the secretary of the New Mexico department of health.

VV. "Secure grounds" means a facility that provides a safe environment to avoid loss or theft.

WW. "Security alarm system" means any device or series of devices capable of alerting law enforcement , including, but not limited to, a signal system interconnected with a radio frequency method such as cellular, private radio signals, or other mechanical or electronic device used to detect or report an emergency or unauthorized intrusion.

XX. "Security policy" means the instruction manual or pamphlet adopted or developed by the licensed producer containing security policies, safety and security procedures, and personal safety and crime prevention techniques.

YY. "Seedling" means a cannabis plant that has no flowers and that is less than 12 inches in height, as measured vertically in the plant's natural position from the uppermost part of the root system (or from the soil line, if the plant is planted in soil) to the tallest point of the plant.

~~ZZ. "Segregate" means to separate and withhold from use or sale batches, lots, cannabis, usable cannabis, or cannabis-derived products in order to first determine its suitability for use through testing by an approved laboratory.~~

~~AAA. "THC" means tetrahydrocannabinol, a cannabinoid that is the primary psychoactive ingredient in cannabis.~~

~~BBB. "Technical evidence" means scientific, clinical, medical, or other specialized testimony, or evidence, but does not include legal argument, general comments, or statements of policy or position concerning matters at issue in the hearing.~~

~~CCC. "Telemedicine" means the use of telecommunications and information technology to provide clinical health care from a site apart from the site where the patient is located, in real time or asynchronously, including the use of interactive simultaneous audio and video or store-and-forward technology, or off-site patient monitoring and telecommunications in order to deliver health care services.~~

~~DDD. "Testing" means the process and procedures provided by an approved laboratory for testing of cannabis and cannabis derived products, consistent with provisions of this rule.~~

~~EEE. "Unit" means a quantity of usable cannabis, concentrate, or cannabis-derived product that is used in identifying the maximum supply that a qualified patient may possess for purposes of department rules.~~

~~FFF. "Usable cannabis" means the dried leaves and flowers of the female cannabis plant and cannabis-derived products, including concentrates, but does not include the seeds, stalks, or roots of the plant.~~]

A. Definitions beginning with "A":

(1) "Act" means the Lynn and Erin Compassionate Use Act, Sections 26-2B-1 through 26-2B-10, NMSA 1978.

(2) "Adequate supply" means an amount of cannabis, in a form approved by the department possessed by a qualified patient or collectively possessed by a qualified patient and the qualified patient's primary caregiver, that is determined by rule of the department to be no more than reasonably necessary to ensure the uninterrupted availability of cannabis for a period of three months and that is derived solely from an intrastate source.

(3) "Administrative review committee" means an intra-department committee that reviews qualified patient or primary caregiver application denials, licensed producer denials made by the program director, or the summary suspension of a producer's license, in accordance with department rules. The administrative review committee shall consist of the chief medical officer of the department (or that's person's designee); a deputy secretary of the department (or that person's designee), and the chief nursing officer of the department (or that person's designee).

(4) "Administrative withdrawal" means the procedure for the voluntary withdrawal of a qualified patient or primary caregiver from the medical cannabis program.

(5) "Advisory board" means the medical cannabis advisory board consisting of nine practitioners knowledgeable about the medical use of cannabis, who are appointed by the secretary.

(6) "Applicant" means any person applying for enrollment or re-enrollment in the medical cannabis program as a qualified patient, primary caregiver, or licensed producer.

(7) "Approved entity" means a manufacturer, laboratory, or courier.

B. Definitions beginning with "B": "Batch" means, with regard to usable cannabis, an identified quantity of cannabis no greater than five pounds that is of the same strain of cannabis, that is harvested during the same specified time period from the same specified cultivation area, and with respect to which he same agricultural practices were utilized, including the use of any pesticides; and with regard to concentrated and cannabis-derived product, means an identified quantity that is uniform, that is intended to meet specifications for identity, strength, and composition, and that is manufactured, packaged, and labeled during a specified time period according to a single manufacturing, packaging, and labeling protocol.

C. Definitions beginning with "C":

(1) "Cannabis" means all parts of the plant Cannabis sativa L containing a delta-9-tetrahydrocannabinol concentration of more than three-tenths percent on a dry weight basis, whether growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or its resin; and does not include the mature stalks of the plant; fiber produced from the stalks; oil or cake made from the seeds of the plant; any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil or cake; the sterilized seed of the plant that is incapable of germination; the weight of any other ingredient combined with cannabis to prepare topical or oral administrations, food, drink or another product; or hemp.

(2) **"Cannabis consumption area"** means an area within a licensed nonprofit producer's premises that is approved by the department, where cannabis may be consumed by qualified patients, in accordance with department rules.

(3) **"Cannabis-derived product"** means a product, other than cannabis itself, which contains or is derived from cannabis, not including hemp.

(4) **"Cannabis establishment"** means:

(a) a licensed cannabis courier;

(b) a licensed cannabis testing facility;

(c) a licensed cannabis manufacturer;

(d) a licensed non-profit producer; or

(e) such other person that the department may by rule approve for participation in the medical cannabis program.

(5) **"CBD"** means cannabidiol, a cannabinoid and the primary non-psychoactive ingredient found in cannabis.

(6) **"CBDA"** means cannabidiolic acid, a non-psychoactive ingredient found in cannabis and an acid precursor to CBD.

(7) **"Concentrated cannabis-derived product ("concentrate")"** means a cannabis-derived product that is manufactured by a mechanical or chemical process that separates any cannabinoid from the cannabis plant, and that contains (or that is intended to contain at the time of sale or distribution) no less than thirty-percent THC by weight.

(8) **"Courier"** means a cannabis courier as defined by the Lynn and Erin Compassionate Use Act, Subsection D of Section 26-2b-3 NMSA 1978, that has been approved by the department specifically to transport usable cannabis and cannabis products within the state of New Mexico from a cannabis establishment to a qualified patient, a primary caregiver, or another cannabis establishment.

D. Definitions beginning with "D":

(1) **"Debilitating medical condition"** means:

(a) cancer;

(b) glaucoma;

(c) multiple sclerosis;

(d) damage to the nervous tissue of the spinal cord, with objective neurological indication of intractable spasticity;

(e) epilepsy;

(f) positive status for human immunodeficiency virus or acquired immune deficiency syndrome;

(g) admission into hospice care in accordance with rules promulgated by the department;

(h) amyotrophic lateral sclerosis;

(i) Crohn's disease;

(j) hepatitis C infection;

(k) Huntington's disease;

(l) inclusion body myositis;

(m) inflammatory autoimmune-mediated arthritis;

(n) intractable nausea or vomiting;

(o) obstructive sleep apnea;

(p) painful peripheral neuropathy;

(q) Parkinson's disease;

(r) posttraumatic stress disorder;

(s) severe chronic pain;

(t) severe anorexia or cachexia;

(u) spasmodic torticollis;

(v) ulcerative colitis; or

(w) any other medical condition, medical treatment, or disease as approved by the department which results in pain, suffering, or debility for which there is credible evidence that medical use cannabis could be of benefit.

(2) **"Department"** means the department of health or its agent.

(3) **"Diversion"** means the unlawful transfer of a cannabis plant, plant material, or cannabis-derived product.

(4) **"Dried usable cannabis"** means the dried leaves, flowers, and trim of the female cannabis plant, but does not include the seeds, stalks, or roots of the cannabis plant.

E. Definitions beginning with "E": [RESERVED]

F. Definitions beginning with "F": "Facility" means any building, space, or grounds licensed for the production, possession, testing, manufacturing, or distribution of cannabis, concentrates, or cannabis-derived products.

G. Definitions beginning with "G": [RESERVED]

H. Definitions beginning with "H": "Hemp" means the plant cannabis sativa L. and any part of the plant, whether growing or not, containing a delta-9-tetrahydrocannabinol concentration of no more than three-tenths percent on a dry weight basis;

I. Definitions beginning with "I":

(1) **"Intrastate"** means existing or occurring within the state boundaries of New Mexico.

(2) **"Inversion"** means the unlawful acquisition of a cannabis plant, plant material, or cannabis-derived product.

J. Definitions beginning with "J": [RESERVED]

K. Definitions beginning with "K": [RESERVED]

L. Definitions beginning with "L":

(1) **"Laboratory"** means a licensed cannabis testing facility as defined in the Lynn and Erin Compassionate Use Act, Subsection I of Section 26-2B-3 NMSA 1978, that has been approved by the department specifically for the testing of cannabis, concentrates, and cannabis derived products.

(2) **"Laboratory applicant"** means a laboratory that seeks to become an approved laboratory, or that seeks renewal of approval as an approved laboratory, in accordance with this rule.

(3) **"Licensed producer"** means a person or entity licensed to produce medical cannabis.

(4) **"Lot"** means an identified portion of a batch, that is uniform and that is intended to meet specifications for identity, strength, and composition; or, in the case of a cannabis-derived product or concentrate, an identified quantity produced in a specified period of time in a manner that is uniform and that is intended to meet specifications for identity, strength, and composition.

M. Definitions beginning with "M":

(1) **"Male plant"** means a male cannabis plant.

(2) **"Manufacture"** means to prepare a cannabis.

(3) **"Manufacturer"** means a cannabis manufacturer as defined in the Lynn and Erin Compassionate Use Act, Subsection F of Section 26-2B-3 NMSA 1978, that has been approved by the department specifically to manufacture cannabis products; package, transport or courier cannabis products; have cannabis products tested by a cannabis testing facility; purchase, obtain, sell and transport cannabis products to other cannabis establishments; and prepare products for personal production license holders.

(4) **"Mature female plant"** means a harvestable female cannabis plant that is flowering.

(5) **"Medical cannabis program"** means the administrative body of the department charged with the management of the medical cannabis program and enforcement of program regulations, to include issuance of registry identification cards, licensing of producers, and regulation of manufacturing and distribution.

(6) **"Medical cannabis program director"** means the administrator of the medical cannabis program who holds that title.

(7) **"Medical director"** means a medical practitioner designated by the department to determine whether the medical condition of an applicant qualifies as a debilitating medical condition eligible for enrollment in the program, and to perform other duties.

(8) **"Medical provider certification for patient eligibility form"** means a written certification form provided by the medical cannabis program signed by a patient's practitioner that, in the practitioner's professional opinion, the patient has a debilitating medical condition as defined by the act or this part and would be anticipated to benefit from the use of cannabis.

(9) **"Minor"** means an individual who is less than 18 years of age.

N. Definitions beginning with "N": "Non-profit producer" means a New Mexico corporation that has been designated as a non-profit corporation by the New Mexico secretary of state, that has been licensed by the department to possess, produce, dispense, distribute and manufacture cannabis and cannabis products and sell wholesale or by direct sale to qualified patients and primary caregivers.

O. Definitions beginning with "O": [RESERVED]

P. Definitions beginning with "P":

(1) "Paraphernalia" means any equipment, product, or material of any kind that is primarily intended or designed for use in compounding, converting, processing, preparing, inhaling, or otherwise introducing cannabis or its derivatives into the human body.

(2) "Patient enrollment/re-enrollment form" means the registry identification card application form for patient applicants provided by the medical cannabis program.

(3) "Permanent structure" means a building or structure that is placed on the land for the foreseeable future that is anchored to a permanent foundation, that is roofed and walled, and which requires a building permit from a local and or state governing authority.

(4) "Personal production license" means a license issued to a qualified patient or to a qualified patient's primary caregiver participating in the medical cannabis program to permit the qualified patient or the qualified patient's primary caregiver to produce cannabis for the qualified patient's use at an address approved by the department.

(5) "Pesticide" means a pesticide as defined by the New Mexico Pesticide Control Act, Section 76-4-3, NMSA 1978.

(6) "Petitioner" means any New Mexico resident or association of New Mexico residents petitioning the advisory board for the inclusion of a new medical condition, medical treatment, or disease to be added to the list of debilitating medical conditions that qualify for the use of cannabis.

(7) "Plant" means any cannabis plant, cutting, or clone that has roots or that is cultivated with the intention of growing roots.

(8) "Policy" means a written statement of principles that guides and determines present and future decisions and actions of the licensed producer.

(9) "Practitioner" means a person licensed in New Mexico to prescribe and administer drugs that are subject to the Controlled Substances Act, Sections 30-31-1 *et seq.*, NMSA 1978.

(10) "Primary caregiver" means a resident of New Mexico who is at least 18 years of age and who has been designated by the qualified patient or their representative and the patient's practitioner as being necessary to take responsibility for managing the well-being of a qualified patient with respect to the medical use of cannabis pursuant to the provisions of the Lynn and Erin Compassionate Use Act, Section 26-2B-1 *et seq.*, NMSA 1978.

(11) "Primary caregiver application form" means the registry identification card application form provided by the medical cannabis program.

(12) "Private entity" means a private, non-profit organization that applies to become or is licensed as a producer and distributor of cannabis, concentrates, or cannabis-derived products.

(13) "Produce" means to engage in any activity related to the planting or cultivation of cannabis.

(14) "Proficiency testing" means testing conducted by the department or its agent to determine the ability of a laboratory applicant or approved laboratory to accurately identify presence, quantity, or other factors pertaining to a given analyte.

Q. Definitions beginning with "Q": "Qualified patient" means a resident of New Mexico who has been diagnosed by a practitioner as having a debilitating medical condition and has received a registry identification card issued pursuant to the requirements of the act or department rules.

R. Definitions beginning with "R":

(1) "Recall" means to request the return of a product after the discovery of a safety issue or product defect.

(2) "Reciprocal limit" means the quantity of cannabis and cannabis products that a reciprocal participant can use and possess in a given year pursuant to department rule.

(3) "Reciprocal participant" means an individual who holds proof of authorization to participate in the medical cannabis program of another state of the United States, the District of Columbia, a territory or commonwealth of the United States or a New Mexico Indian nation, tribe or pueblo.

(4) "Registry identification card" means a document issued and owned by the department which identifies a qualified patient authorized to engage in the use of cannabis for a debilitating medical condition or a document issued by the department which identifies a primary caregiver authorized to engage in the intrastate possession and administration of cannabis for the sole use of the qualified patient.

(5) "Representative" means an individual designated as the applicant's or petitioner's agent, guardian, surrogate, or other legally appointed or authorized health care decision maker.

S. Definitions beginning with "S":

(1) **"Secretary"** means the secretary of the New Mexico department of health.

(2) **"Secure grounds"** means a facility that provides a safe environment to avoid loss or theft.

(3) **"Security alarm system"** means any device or series of devices capable of alerting law enforcement , including, but not limited to, a signal system interconnected with a radio frequency method such as cellular, private radio signals, or other mechanical or electronic device used to detect or report an emergency or unauthorized intrusion.

(4) **"Security policy"** means the instruction manual or pamphlet adopted or developed by the licensed producer containing security policies, safety and security procedures, and personal safety and crime prevention techniques.

(5) **"Seedling"** means a cannabis plant that has no flowers and that is less than 12 inches in height, as measured vertically in the plant's natural position from the uppermost part of the root system (or from the soil line, if the plant is planted in soil) to the tallest point of the plant.

(6) **"Segregate"** means to separate and withhold from use or sale batches, lots, cannabis, usable cannabis, or cannabis-derived products in order to first determine its suitability for use through testing by an approved laboratory.

T. Definitions beginning with "T":

(1) **"THC"** means tetrahydrocannabinol, a cannabinoid that is the primary psychoactive ingredient in cannabis.

(2) **"THCA"** means tetrahydrocannabinolic acid, a non-psychoactive ingredient in cannabis and an acid precursor to THC.

(3) **"Technical evidence"** means scientific, clinical, medical, or other specialized testimony, or evidence, but does not include legal argument, general comments, or statements of policy or position concerning matters at issue in the hearing.

(4) **"Telemedicine"** means the use of telecommunications and information technology to provide clinical health care from a site apart from the site where the patient is located, in real time or asynchronously, including the use of interactive simultaneous audio and video or store-and-forward technology, or off-site patient monitoring and telecommunications in order to deliver health care services.

(5) **"Testing"** means testing of cannabis and cannabis derived products, consistent with provisions of this rule.

U. Definitions beginning with "U":

(1) **"Unit"** means a quantity of usable cannabis, concentrate, or cannabis-derived product that is used in identifying the maximum supply that a qualified patient may possess for purposes of department rules.

(2) **"Usable cannabis"** means the dried leaves and flowers of the female cannabis plant and cannabis-derived products, including concentrates, but does not include the seeds, stalks, or roots of the plant.

V. Definitions beginning with "V": [RESERVED]

W. Definitions beginning with "W": "Wastage" means the destruction of usable cannabis or cannabis plants.

X. Definitions beginning with "X": [RESERVED]

Y. Definitions beginning with "Y":

Z. Definitions beginning with "Z" [RESERVED]

[7.34.3.7 NMAC - Rp, 7.34.3.7 NMAC, 2/27/2015; A, 2/29/2016; A, 8/27/2019; A, 6/23/2020]