“Balancing Science and Politics: The Challenges of Implementing Medical Marijuana Laws”
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ELEMENTS OF A MODEL STATE LAW

1. Distinguish Model Laws from Uniform Laws
   a. Uniform Laws

   www.nccusl.org– National Conference of Commissioners on Uniform State Laws
   www.uniformlaws.org - Uniform Law Commission

   (both last accessed March 28, 2012)

   e.g. Uniform Emergency Volunteer Health Practitioners Act, enacted in New Mexico as Sections 12-12A-1, et seq., NMSA (New Mexico Statutes Annotated) 1978 during the 2008 NM Legislative Session (Laws of 2008, Chapter 47).
b. Model Laws


Section 1. Title

Section 2. Findings

Section 3. Definitions

Section 4. Protections for the Medical Use of Marijuana

Section 5. Limitations

Section 6. Discrimination Prohibited

Section 7. Addition of Debilitating Medical Conditions

Section 8. Acts Not Required. Acts Not Prohibited

Section 9. Registration of Qualifying Patients and Designated Caregivers

Section 10. Issuance of Registry Identification Cards

Section 11. Denial of Identification Cards

Section 12. Registry Identification Cards

Section 13. Notification to Department and Responses. Civil Penalty

Section 14. Affirmative Defenses and Dismissal for Medical Marijuana

Section 15. Registration of Compassion Centers

Section 16. Registration and Certification of Safety Compliance Facilities

Section 17. Compassion Center and Safety Compliance Facilities Suspension and Revocation

Section 18. Local Ordinances

Section 19. Compensation Center and Safety Compliance Facility Agents
Section 20. Requirements. Prohibitions. Penalties

Section 21. Confidentiality

Section 22. Registry Identification and Registration Certificate Verification

Section 23. Annual Reports

Section 24. Department to Issue Regulations

Section 25. Enforcement of this Chapter

Section 26. Severability

Section 27. Date of Effect

2. Other State Medical Marijuana Laws

   b. Original New Mexico legislation in 2001 – SB 319 (Maes) & HB 431 (Thompson); Duplicate bills which died on adjournment; HB 431 was on the Senate calendar waiting final passage; SB 319 died in the House Judiciary Committee. To be enforced by the New Mexico Department of Health.

Section 1. Short Title

Section 2. Legislative Findings – Purpose

Section 3. Definitions

Section 4. Rulemaking by Secretary for Establishing Program
Section 5. Statutory Requirements for Participation in Program

Section 6. Lawful Activities

Section 7. Participation by Person Who Has Not Reached His Eighteenth Birthday

Section 8. Prohibitions. Restrictions and Limitations on the Medical Use of Marijuana.

Section 9. Fraudulent Representation to Law Enforcement Officer Punishable as Petty Misdemeanor

Section 10. Defense of Medical Use of Marijuana in Prosecutions for Marijuana Offenses

Section 11. Amendment to Section 30-31-6 NMSA 1978 – Schedule I of the NM Controlled Substances Act

Section 12. Amendment to Section 30-31-7 NMSA 1978 – Schedule II of the NM Controlled Substances Act


Section 14. Severability


Section 1. Short Title

Section 2. Purpose of Act
Section 3. Definitions

Section 4. Exemption for Criminal and Civil Penalties for the Medical Use of Cannabis

Section 5. Prohibitions, Restrictions and Limitations on the Medical Use of Cannabis – Criminal Penalties.

Section 6. Advisory Board Created – Duties.

Section 7. Registry Identification Cards – Department Rules – Duties

Section 8. Amendment to Section 30-31-6 NMSA 1978 – Schedule I of the NM Controlled Substances Act

Section 9. Amendment to Section 30-31-7 NMSA 1978 – Schedule II of the NM Controlled Substances Act

Section 10. Temporary Provision (Procedures for registry identification cards, licensed producers, cannabis production facilities, distribution system and adequate supply prior to the promulgation of rules by the NM Department of Health)

Section 11. Severability

Section 12. Effective Date (July 1, 2007)

d. 3 New Mexico Department of Health Regulations (New Mexico Administrative Code – NMAC) Implementing the Lynn and Erin Compassionate Use Act – www.nmecpr.state.nm.us/nmac (last accessed April 9, 2012)

7.34.2 NMAC – Advisory Board Responsibilities

7.34.4 NMAC – Registry Identification Cards

7.34.4 NMAC – Licensing Requirements for Producers, Production Facilities and Distribution
e. www.ncsl.org - National Conference of State Legislatures for directory of state legislative websites for statutes, bills, etc. (last accessed March 28, 2012).

3. Maryland “Legislative Drafting Manual” available on-line?


5. What did New Mexico overlook?

Funding Mechanism for Program Administration – See SB 240 (Laws of 2012, Chapter 42) creating the Medical Cannabis Fund in the New Mexico Department of Health.

“One Toke Over the DWI Line” (apologies to Brewer and Shipley circa 1970-71 – Albuquerque Journal editorial, March 22, 2012 – “Drugged driving” laws have failed in NM; see, e.g. SB 405 (2011 New Mexico Regular Legislative Session) which died on adjournment in the Senate Judiciary Committee; would have allowed for therapeutic levels for standard Rx medication and disqualifying driving with an illegal drug on board.


See also Medical Marijuana Blog Posts dated May 17, 2011 and September 2, 2011.
7. “It is one of the happy incidents of the federal system that a single courageous State may, if its citizens choose, serve as a laboratory; and try novel social and economic experiments without risk to the rest of the country.”


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