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RESEARCH BRIEF ON

NEVADA MEDICAL MARIJUANA PROGRAM

This research brief provides a summary of the main provisions and regulations of Nevada's medical marijuana program.

OVERVIEW AND HISTORY

Nevada's medical marijuana law is codified in Chapter 453A ("Medical Use of Marijuana") of *Nevada Revised Statutes* (NRS), with regulations contained in the corresponding chapter of *Nevada Administrative Code*. Nevada voters approved medical marijuana by ballot initiative in 2000. In 2001, in response to the constitutional amendment approved by the voters, the Nevada Legislature enacted laws allowing qualifying patients to apply for registry identification cards to use medical marijuana for certain chronic or debilitating conditions. The law also provides that qualifying patients may choose to designate a caregiver to assist them with the use of medical marijuana. However, no provision was made in the original legislation to allow for patients to obtain medical marijuana, other than by growing their own.

In 2013, the Legislature approved Senate Bill 374 (Chapter 547, *Statutes of Nevada*), directing the Division of Public and Behavioral Health (DPBH), Department of Health and Human Services, to develop regulations and authorize the creation of licensed and registered establishments to produce, test, and dispense medical marijuana and marijuana-infused products. Regulations covering medical marijuana establishments took effect on April 1, 2014. In 2015, the Legislature approved S.B. 276 (Chapter 495, *Statutes of Nevada*), providing

greater flexibility for medical marijuana establishments, including provisions allowing for reallocation of unused certificates; changes in location of establishments, if approved by local government; and transfer of ownership of registration certificates, if the new owner meets certain requirements.

MEDICAL MARIJUANA PATIENTS, PHYSICIANS, AND CAREGIVERS

Because marijuana is classified as a schedule I drug in the federal Controlled Substances Act, physicians can recommend, but may not prescribe, marijuana to alleviate symptoms for a variety of chronic and debilitating conditions. Nevada's law provides limited exemption to State prosecution for patients and caregivers registered with the DPBH who grow 12 plants or less and possess no more than 2.5 ounces of usable marijuana within a single 14-day period.

Qualifications for a medical marijuana patient

To qualify to become a medical marijuana patient in Nevada, one must:

- Be a resident of Nevada;
- Be in the care of an attending physician who is licensed in Nevada;
- Be diagnosed with an approved chronic or debilitating condition;
- Be informed by the attending physician about the benefits and risks of medical marijuana;
- Have received written documentation that medical marijuana could mitigate the symptoms;

- Be registered with the DPBH and have obtained a valid registry identification card;
- Not possess more than 2.5 ounces of usable marijuana in a single 14-day period;
- Not possess more than 12 marijuana plants (whether mature or immature) at one time; and
- For persons under 18 years of age, obtain written consent from a custodial parent or legal guardian with responsibility for health care decisions, who acts as a designated primary caregiver, to obtain a registry card.

Requirements for an attending physician

To qualify as an attending physician in Nevada, one must:

- Be a Doctor of Medicine or Doctor of Osteopathy, licensed to practice in Nevada;
- Be responsible for the care and treatment of the person diagnosed with a chronic or debilitating condition;
- Provide a personal assessment of the patient's history and medical condition;
- Inform the patient about the risks and benefits of medical marijuana;
- Have informed consent of the custodial parent or legal guardian when the patient is less than 18 years of age; and
- Sign a written document stating that the patient has a chronic or debilitating medical condition and that medical marijuana could mitigate the symptoms.

Approved chronic and debilitating conditions

Individuals applying to become a patient must be diagnosed with one of the following chronic and debilitating conditions:

- AIDS;
- Cancer;
- Glaucoma;
- Post-traumatic stress disorder; or
- A condition or treatment for a medical condition that produces:
 - ▶ Cachexia (general physical wasting and malnutrition);
 - ▶ Persistent muscle spasms (including multiple sclerosis);
 - ▶ Seizures (including epilepsy);
 - ▶ Severe nausea;
 - ▶ Severe pain; or
 - ▶ Any other medical condition or treatment classified as chronic or debilitating by the DPBH or pursuant to a petition under NRS 453A.710.

Qualifications for designated primary caregiver

To qualify as a designated primary caregiver, one:

- Must be 18 years of age or older;
- Must have a significant responsibility for the well-being and care of the person diagnosed with a condition;
- Must not be the patient’s attending physician;

- Must be designated as a primary caregiver by the patient on the application, or in writing, to the DPBH;
- Can only be a designated caregiver for one person; and
- Must be issued a registry identification card on behalf of the patient.

MEDICAL MARIJUANA ESTABLISHMENTS

Four types of medical marijuana establishments are regulated and licensed in Nevada: (1) dispensaries; (2) cultivation facilities; (3) producers of edible or marijuana-infused products; and (4) independent testing laboratories.

Requirements of medical marijuana establishments

In order to operate a medical marijuana establishment in Nevada, one must:

- Be issued a registration certificate, with all employees and volunteers receiving agent registration cards;
- Own the proposed location, or provide written consent of the property owner, and control at least \$250,000 in liquid assets to cover required operating expenses;
- Submit operating procedures for review and provide proof that the proposed establishment meets building requirements and other local restrictions;
- Not be located within 1,000 feet of a public or private school or 300 feet of a day care center, public park, playground, public swimming pool, religious worship structure, or facility with the primary purpose of providing

recreational services to children and adolescents; and

- Not dispense, deliver, or transfer cannabis to anyone not registered, or acquire plants, plant material, or cannabis products from anyone not registered with the DPBH.

Additionally, owners, officers, board members, employees, and volunteers must:

- Be 21 years of age or older and submit information, including fingerprints, for a background check;
- Comply with all child support orders and not have a prior conviction for an excluded felony offense; and
- Not have had a medical marijuana establishment registration card revoked.

The DPBH also considers certain criteria of merit (set forth in NRS 453A.328) when approving registration certificates for medical marijuana establishments.

Number of medical marijuana dispensary certificates per county

The maximum number of dispensary certificates that may be issued per county is limited as follows*:

County Population	Certificates
700,000 or more	40
100,000 to 699,999	10
55,000 to 99,999	2
54,999 or less	1

*Senate Bill 276 of the 2015 Legislative Session requires the DPBH to reallocate any certificates provided for a county which has no qualified applicants.

HELPFUL SOURCES

- The DPBH maintains an updated list of operating medical marijuana dispensaries at: <http://dpbh.nv.gov/uploadedFiles/dpbhngov/content/Reg/MedMarijuana/OpenDispensaryList2.pdf>.
- *Nevada Revised Statutes*: <http://www.leg.state.nv.us/Division/Legal/LawLibrary/NRS/NRS-453A.html>.
- *Nevada Administrative Code*: <http://leg.state.nv.us/NAC/NAC-453A.html>.

