

SENATE BILL NO. 374—SENATOR SEGERBLOM

MARCH 20, 2017

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to the use of marijuana or industrial hemp. (BDR 40-185)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.  
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to cannabis; revising the medical conditions for which a person may obtain a registry identification card; prohibiting a professional licensing board from taking disciplinary action against a licensee who holds a registry identification card or engages in certain lawful activities relating to marijuana; authorizing the use of a marijuana-infused product or product containing industrial hemp by a provider of health care or massage therapist on a patient or client; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 Existing law authorizes a person to obtain a registry identification card to  
2 engage in the medical use of marijuana if, in addition to other requirements, the  
3 person submits valid, written documentation from the person’s attending physician  
4 stating that the person has been diagnosed with a chronic or debilitating medical  
5 condition. (NRS 453A.210) **Section 1** of this bill includes opioid addiction within  
6 the definition of “chronic or debilitating medical condition.” (NRS 453A.050)  
7 Existing law prohibits a professional licensing board from taking disciplinary  
8 action against a person licensed by the board on the basis that the person engages in  
9 the medical use of marijuana or acts as a designated primary caregiver for a person  
10 who holds a registry identification card or letter of approval. (NRS 453A.510)  
11 **Section 1.5** of this bill prohibits a professional licensing board from taking  
12 disciplinary action against a person licensed by the board on the basis that the  
13 person holds a validly issued registry identification card or engages in lawful  
14 activity, pursuant to the person’s licensed profession, relating to the medical use of  
15 marijuana or to a registered medical marijuana establishment. **Section 2** of this bill  
16 prohibits a professional licensing board from taking disciplinary action on the basis



17 that the person engages in lawful activity, pursuant to the person's licensed  
18 profession, relating to: (1) the recreational use of marijuana; or (2) a licensed  
19 marijuana establishment.

20 Existing law exempts a person who holds a valid registry identification card  
21 from state prosecution for possession, delivery and production of marijuana. (NRS  
22 453A.200) **Section 3.3** of this bill authorizes a provider of health care or massage  
23 therapist to: (1) administer a marijuana-infused product or a similar product  
24 containing industrial hemp for topical use on human skin to a patient or client if the  
25 patient or client provides the product for administration; (2) maintain a supply of  
26 products containing industrial hemp for topical use on human skin and administer  
27 such a product to a patient or client upon request; and (3) recommend the use of  
28 marijuana or industrial hemp by a patient or client to treat a condition. **Section 3.3**  
29 also exempts a provider of health care or massage therapist from certain crimes for  
30 making such an administration or recommendation. Finally, **section 3.3** prohibits a  
31 professional licensing board from taking disciplinary action against a provider of  
32 health care or massage therapist for making such an administration or  
33 recommendation.

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THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 453A.050 is hereby amended to read as  
2 follows:

3 453A.050 "Chronic or debilitating medical condition" means:

- 4 1. Acquired immune deficiency syndrome;
- 5 2. Cancer;
- 6 3. Glaucoma;
- 7 4. *Opioid addiction*;

8 5. A medical condition or treatment for a medical condition  
9 that produces, for a specific patient, one or more of the following:

- 10 (a) Cachexia;
- 11 (b) Persistent muscle spasms, including, without limitation,  
12 spasms caused by multiple sclerosis;
- 13 (c) Seizures, including, without limitation, seizures caused by  
14 epilepsy;
- 15 (d) Severe nausea; or
- 16 (e) Severe pain; or

17 ~~5.1~~ 6. Any other medical condition or treatment for a medical  
18 condition that is:

19 (a) Classified as a chronic or debilitating medical condition by  
20 regulation of the Division; or

21 (b) Approved as a chronic or debilitating medical condition  
22 pursuant to a petition submitted in accordance with NRS 453A.710.



1     **Sec. 1.5.** NRS 453A.510 is hereby amended to read as  
2 follows:

3     453A.510 A professional licensing board shall not take any  
4 disciplinary action against a person licensed by the board on the  
5 basis that:

6     1. The person engages in or has engaged in the medical use of  
7 marijuana in accordance with the provisions of this chapter; ~~to~~

8     2. *The person holds a registry identification card issued to*  
9 *him or her pursuant to paragraph (a) of subsection 1 of*  
10 *NRS 453A.220;*

11     3. *The person engages in any lawful activity, pursuant to the*  
12 *person's licensed profession, which:*

13         (a) *Is authorized by this chapter; or*

14         (b) *Relates to a medical marijuana establishment which is*  
15 *registered with the Division pursuant to this chapter;*

16     4. *If the person is a provider of health care, as defined in*  
17 *NRS 629.031, the person advises a patient about the possible risks*  
18 *and benefits of the medical use of marijuana or that the medical*  
19 *use of marijuana may mitigate the symptoms or effects of the*  
20 *patient's chronic or debilitating medical condition, if the advice is*  
21 *based on the person's personal assessment of the patient's medical*  
22 *history and current medical condition; or*

23     5. The person acts as or has acted as the designated primary  
24 caregiver of a person who holds a registry identification card or  
25 letter of approval issued to him or her pursuant to paragraph (a) of  
26 subsection 1 of NRS 453A.220.

27     **Sec. 2.** Chapter 453D of NRS is hereby amended by adding  
28 thereto a new section to read as follows:

29     *A professional licensing board shall not take any disciplinary*  
30 *action against any person licensed by the board on the basis that,*  
31 *pursuant to the person's licensed profession, the person engages*  
32 *in or has engaged in any lawful activity which:*

33         1. *Is authorized by this chapter; or*

34         2. *Relates to a marijuana establishment which is licensed*  
35 *pursuant to this chapter.*

36     **Sec. 3.** (Deleted by amendment.)

37     **Sec. 3.3.** Chapter 629 of NRS is hereby amended by adding  
38 thereto a new section to read as follows:

39     1. *A provider of health care or massage therapist may:*

40         (a) *Administer a marijuana-infused product or a product*  
41 *containing industrial hemp which is intended for topical use on*  
42 *human skin, including, without limitation, an ointment, oil or*  
43 *lotion, to a patient or client if the patient or client provides the*  
44 *product to the provider of health care or massage therapist to*  
45 *administer to the patient or client;*



1 (b) *Maintain a supply of products containing industrial hemp*  
2 *which are intended for topical use on human skin and administer*  
3 *such a product to a patient or client upon request; and*

4 (c) *Recommend to a patient or client the use of marijuana or*  
5 *industrial hemp to treat a condition.*

6 2. *A provider of health care or massage therapist who*  
7 *administers a marijuana-infused product or a product containing*  
8 *industrial hemp or recommends the use of marijuana or industrial*  
9 *hemp pursuant to subsection 1 is exempt from state prosecution*  
10 *for:*

11 (a) *Possession, delivery or production of marijuana or*  
12 *industrial hemp;*

13 (b) *Possession or delivery of paraphernalia;*

14 (c) *Aiding and abetting another in the possession, delivery or*  
15 *production of marijuana or industrial hemp;*

16 (d) *Aiding and abetting another in the possession or delivery of*  
17 *paraphernalia;*

18 (e) *Any combination of the acts described in paragraphs (a) to*  
19 *(d), inclusive; and*

20 (f) *Any other criminal offense in which the possession,*  
21 *delivery or production of marijuana or industrial hemp or the*  
22 *possession or delivery of paraphernalia is an element,*  
23 *↳ for such an administration or recommendation.*

24 3. *A professional licensing board shall not take any*  
25 *disciplinary action against a provider of health care or massage*  
26 *therapist licensed by the board on the basis that the person has*  
27 *administered a marijuana-infused product or a product containing*  
28 *industrial hemp or recommended the use of marijuana or*  
29 *industrial hemp pursuant to subsection 1.*

30 4. *As used in this section:*

31 (a) *“Industrial hemp” has the meaning ascribed to it in*  
32 *NRS 557.040.*

33 (b) *“Marijuana” has the meaning ascribed to it in*  
34 *NRS 453.096.*

35 (c) *“Marijuana-infused product” has the meaning ascribed to*  
36 *it in NRS 453A.112.*

37 (d) *“Massage therapist” means a person who is licensed to*  
38 *engage in the practice of massage therapy pursuant to chapter*  
39 *640C of NRS.*

40 (e) *“Paraphernalia” has the meaning ascribed to it in*  
41 *NRS 453A.125.*

42 **Sec. 3.7.** NRS 629.580 is hereby amended to read as follows:

43 629.580 1. A person who provides wellness services in  
44 accordance with this section, but who is not licensed, certified or  
45 registered in this State as a provider of health care, is not in



1 violation of any law based on the unlicensed practice of health care  
2 services or a health care profession unless the person:

3 (a) Performs surgery or any other procedure which punctures the  
4 skin of any person;

5 (b) Sets a fracture of any bone of any person;

6 (c) Prescribes or administers X-ray radiation to any person;

7 (d) ~~Prescribes~~ *Except as otherwise provided in section 3.3 of*  
8 *this act, prescribes* or administers a prescription drug or device or a  
9 controlled substance to any person;

10 (e) Recommends to a client that he or she discontinue or in any  
11 manner alter current medical treatment prescribed by a provider of  
12 health care licensed, certified or registered in this State;

13 (f) Makes a diagnosis of a medical disease of any person;

14 (g) Performs a manipulation or a chiropractic adjustment of the  
15 articulations of joints or the spine of any person;

16 (h) Treats a person's health condition in a manner that  
17 intentionally or recklessly causes that person recognizable and  
18 imminent risk of serious or permanent physical or mental harm;

19 (i) Holds out, states, indicates, advertises or implies to any  
20 person that he or she is a provider of health care;

21 (j) Engages in the practice of medicine in violation of chapter  
22 630 or 633 of NRS, the practice of homeopathic medicine in  
23 violation of chapter 630A of NRS or the practice of podiatry in  
24 violation of chapter 635 of NRS, unless otherwise expressly  
25 authorized by this section;

26 (k) Performs massage therapy as that term is defined in NRS  
27 640C.060; or

28 (l) Provides mental health services that are exclusive to the  
29 scope of practice of a psychiatrist licensed pursuant to chapter 630  
30 or 633 of NRS, or a psychologist licensed pursuant to chapter 641 of  
31 NRS.

32 2. Any person providing wellness services in this State who is  
33 not licensed, certified or registered in this State as a provider of  
34 health care and who is advertising or charging a fee for wellness  
35 services shall, before providing those services, disclose to each  
36 client in a plainly worded written statement:

37 (a) The person's name, business address and telephone number;

38 (b) The fact that he or she is not licensed, certified or registered  
39 as a provider of health care in this State;

40 (c) The nature of the wellness services to be provided;

41 (d) The degrees, training, experience, credentials and other  
42 qualifications of the person regarding the wellness services to be  
43 provided; and

44 (e) A statement in substantially the following form:



1 It is recommended that before beginning any wellness plan, you  
2 notify your primary care physician or other licensed providers of  
3 health care of your intention to use wellness services, the nature of  
4 the wellness services to be provided and any wellness plan that may  
5 be utilized. It is also recommended that you ask your primary care  
6 physician or other licensed providers of health care about any  
7 potential drug interactions, side effects, risks or conflicts between  
8 any medications or treatments prescribed by your primary care  
9 physician or other licensed providers of health care and the wellness  
10 services you intend to receive.

11 ➤ A person who provides wellness services shall obtain from each  
12 client a signed copy of the statement required by this subsection,  
13 provide the client with a copy of the signed statement at the time of  
14 service and retain a copy of the signed statement for a period of not  
15 less than 5 years.

16 3. A written copy of the statement required by subsection 2  
17 must be posted in a prominent place in the treatment location of the  
18 person providing wellness services in at least 12-point font.  
19 Reasonable accommodations must be made for clients who:

20 (a) Are unable to read;  
21 (b) Are blind or visually impaired;  
22 (c) Have communication impairments; or  
23 (d) Do not read or speak English or any other language in which  
24 the statement is written.

25 4. Any advertisement for wellness services authorized pursuant  
26 to this section must disclose that the provider of those services is not  
27 licensed, certified or registered as a provider of health care in this  
28 State.

29 5. A person who violates any provision of this section is guilty  
30 of a misdemeanor. Before a criminal proceeding is commenced  
31 against a person for a violation of a provision of this section, a  
32 notification, educational or mediative approach must be utilized by  
33 the regulatory body enforcing the provisions of this section to bring  
34 the person into compliance with such provisions.

35 6. This section does not apply to or control:

36 (a) Any health care practice by a provider of health care  
37 pursuant to the professional practice laws of this State, or prevent  
38 such a health care practice from being performed.

39 (b) Any health care practice if the practice is exempt from the  
40 professional practice laws of this State, or prevent such a health care  
41 practice from being performed.

42 (c) A person who provides health care services if the person is  
43 exempt from the professional practice laws of this State, or prevent  
44 the person from performing such a health care service.



1 (d) A medical assistant, as that term is defined in NRS 630.0129  
2 and 633.075, an advanced practitioner of homeopathy, as that term  
3 is defined in NRS 630A.015, or a homeopathic assistant, as that  
4 term is defined in NRS 630A.035.

5 7. As used in this section, “wellness services” means healing  
6 arts therapies and practices, and the provision of products, that are  
7 based on the following complementary health treatment approaches  
8 and which are not otherwise prohibited by subsection 1:

- 9 (a) Anthroposophy.
- 10 (b) Aromatherapy.
- 11 (c) Traditional cultural healing practices.
- 12 (d) Detoxification practices and therapies.
- 13 (e) Energetic healing.
- 14 (f) Folk practices.
- 15 (g) Gerson therapy and colostrum therapy.
- 16 (h) Healing practices using food, dietary supplements, nutrients  
17 and the physical forces of heat, cold, water and light.
- 18 (i) Herbology and herbalism.
- 19 (j) Reflexology and Reiki.
- 20 (k) Mind-body healing practices.
- 21 (l) Nondiagnostic iridology.
- 22 (m) Noninvasive instrumentalities.
- 23 (n) Holistic kinesiology.

24 **Sec. 4.** This act becomes effective on July 1, 2017.

