Assembly Bill No. 453–Assemblywoman Giunchigliani

CHAPTER.....

AN ACT relating to controlled substances; exempting the medical use of marijuana from state prosecution in certain circumstances; revising the penalties for possessing marijuana; and providing other matters properly relating thereto.

WHEREAS, Modern medical research, including the report *Marijuana and Medicine: Assessing the Science Base* that was released by the Institute of Medicine in 1999, indicates that there is a potential therapeutic value of using marijuana for alleviating pain and other symptoms associated with certain chronic or debilitating medical conditions, including, without limitation, cancer, glaucoma, acquired immunodeficiency syndrome, epilepsy and multiple sclerosis; and

WHEREAS, The State of Nevada has a high incidence of such medical conditions and also has a large and increasing population of senior citizens who may suffer from medical conditions for which the use of marijuana may be useful in managing the pain that results from those conditions; and

WHEREAS, The people of the State of Nevada recognized the importance of this research and the need to provide the option for those suffering from certain medical conditions to alleviate their pain with the medical use of marijuana, and in the general elections held in 1998 and 2000, voiced their overwhelming support for a constitutional amendment to allow for the medical use of marijuana in this state under certain circumstances; and

WHEREAS, While the legislature respects the important and difficult decisions the Federal Government faces in exercising the powers delegated to it by the United States Constitution to establish policies and rules that are in the best interest of this nation, the State of Nevada as a sovereign state has the duty to carry out the will of the people of this state and to regulate the health, medical practices and well-being of those people in a manner that respects their personal decisions concerning the relief of suffering through the medical use of marijuana; and

WHEREAS, This state should continue to study the benefits of the medical use of marijuana to develop new ways in which the medical use of marijuana may improve the lives of residents of this state who are suffering from chronic or debilitating conditions, and to include in such a study an examination of all established and approved federal protocols; and

WHEREAS, Many residents of this state have suffered the negative consequences of abuse of and addiction to marijuana, and it is important for the legislature to ensure that the program established for the distribution and medical use of marijuana is designed in such a manner as not to harm the residents of this state by contributing to the general abuse of and addiction to marijuana; and

WHEREAS, A majority of the men and women in our penal institutions have been convicted of offenses that involve the unlawful use of drugs, many involving marijuana, and there is a need for revising our statutes concerning persons who unlawfully possess smaller quantities of marijuana based on the premise that the rehabilitation of such users is a more appropriate and economical way to prevent recidivism and to address the problems that result from the abuse of marijuana; and

WHEREAS, The legislature is strongly committed to evaluating the medical use of marijuana and recognizes the importance of its obligation to review the program for the distribution and medical use of marijuana and any related study conducted by the University of Nevada School of Medicine, to determine whether the program and study are effectively addressing the best interests of the people of the State of Nevada; now, therefore,

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

Section 1. Title 40 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 33, inclusive, of this act.

Sec. 2. ***As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to 16, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 3. ***"Administer" has the meaning ascribed to it in NRS 453.021.***

Sec. 4. ***"Attending physician" means a physician who:***

1. Is licensed to practice medicine pursuant to the provisions of chapter 630 of NRS; and

2. Has primary responsibility for the care and treatment of a person diagnosed with a chronic or debilitating medical condition.

Sec. 5. ***"Cachexia" means general physical wasting and malnutrition associated with chronic disease.***

Sec. 6. ***"Chronic or debilitating medical condition" means:***

1. Acquired immune deficiency syndrome;

2. Cancer;

3. Glaucoma;

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

(a) Cachexia;

(b) Persistent muscle spasms, including, without limitation, spasms caused by multiple sclerosis;

(c) Seizures, including, without limitation, seizures caused by epilepsy;

(d) Severe nausea; or

(e) Severe pain; or

5. Any other medical condition or treatment for a medical condition that is:

(a) Classified as a chronic or debilitating medical condition by regulation of the division; or

(b) Approved as a chronic or debilitating medical condition pursuant to a petition submitted in accordance with section 30 of this act.

Sec. 7. ***"Deliver" or "delivery" has the meaning ascribed to it in NRS 453.051.***

Sec. 8. ***"Department" means the state department of agriculture.***

Sec. 9. ***1. "Designated primary caregiver" means a person who:***

(a) Is 18 years of age or older;

(b) Has significant responsibility for managing the well-being of a person diagnosed with a chronic or debilitating medical condition; and

(c) Is designated as such in the manner required pursuant to section 23 of this act.

2. The term does not include the attending physician of a person diagnosed with a chronic or debilitating medical condition.

Sec. 10. *"Division" means the health division of the department of human resources.*

Sec. 11. *"Drug paraphernalia" has the meaning ascribed to it in NRS 453.554.*

Sec. 12. *"Marijuana" has the meaning ascribed to it in NRS 453.096.*

Sec. 13. *"Medical use of marijuana" means:*

1. The possession, delivery, production or use of marijuana;

2. The possession, delivery or use of paraphernalia used to administer marijuana; or

3. Any combination of the acts described in subsections 1 and 2,

as necessary for the exclusive benefit of a person to mitigate the symptoms or effects of his chronic or debilitating medical condition.

Sec. 13.5. *"Production" has the meaning ascribed to it in NRS 453.131.*

Sec. 14. *"Registry identification card" means a document issued by the department or its designee that identifies:*

1. A person who is exempt from state prosecution for engaging in the medical use of marijuana; or

2. The designated primary caregiver, if any, of a person described in subsection 1.

Sec. 14.5. *"State prosecution" means prosecution initiated or maintained by the State of Nevada or an agency or political subdivision of the State of Nevada.*

Sec. 15. *1. "Usable marijuana" means the dried leaves and flowers of a plant of the genus Cannabis, and any mixture or preparation thereof, that are appropriate for the medical use of marijuana.*

2. The term does not include the seeds, stalks and roots of the plant.

Sec. 16. *"Written documentation" means:*

1. A statement signed by the attending physician of a person diagnosed with a chronic or debilitating medical condition; or

2. Copies of the relevant medical records of a person diagnosed with a chronic or debilitating medical condition.

Sec. 17. *1. Except as otherwise provided in this section and section 24 of this act, a person who holds a valid registry identification card issued to him pursuant to section 20 or 23 of this act is exempt from state prosecution for:*

(a) Possession, delivery or production of marijuana;

(b) Possession or delivery of drug paraphernalia;

(c) Aiding and abetting another in the possession, delivery or production of marijuana;

(d) Aiding and abetting another in the possession or delivery of drug paraphernalia;

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

(f) Any other criminal offense in which the possession, delivery or production of marijuana or the possession or delivery of drug paraphernalia is an element.

2. In addition to the provisions of subsection 1, no person may be subject to state prosecution for constructive possession, conspiracy or any other criminal offense solely for being in the presence or vicinity of the medical use of marijuana in accordance with the provisions of this chapter.

3. The exemption from state prosecution set forth in subsection 1 applies only to the extent that a person who holds a registry identification card issued to him pursuant to paragraph (a) of subsection 1 of section 20 of this act, and the designated primary caregiver, if any, of such a person:

(a) Engage in or assist in, as applicable, the medical use of marijuana in accordance with the provisions of this chapter as justified to mitigate the symptoms or effects of the person's chronic or debilitating medical condition; and

(b) Do not, at any one time, collectively possess, deliver or produce more than:

(1) One ounce of usable marijuana;

(2) Three mature marijuana plants; and

(3) Four immature marijuana plants.

4. If the persons described in subsection 3 possess, deliver or produce marijuana in an amount which exceeds the amount described in paragraph (b) of that subsection, those persons:

(a) Are not exempt from state prosecution for possession, delivery or production of marijuana.

(b) May establish an affirmative defense to charges of possession, delivery or production of marijuana, or any combination of those acts, in the manner set forth in section 25 of this act.

Sec. 18. (Deleted by amendment.)

Sec. 19. *1. The department shall establish and maintain a program for the issuance of registry identification cards to persons who meet the requirements of this section.*

2. Except as otherwise provided in subsections 3 and 5, the department or its designee shall issue a registry identification card to a person who submits an application on a form prescribed by the department accompanied by the following:

(a) Valid, written documentation from the person's attending physician stating that:

(1) The person has been diagnosed with a chronic or debilitating medical condition;

(2) The medical use of marijuana may mitigate the symptoms or effects of that condition; and

(3) The attending physician has explained the possible risks and benefits of the medical use of marijuana;

(b) The name, address, telephone number, social security number and date of birth of the person;

(c) The name, address and telephone number of the person's attending physician; and

(d) If the person elects to designate a primary caregiver at the time of application:

(1) The name, address, telephone number and social security number of the designated primary caregiver; and

(2) A written, signed statement from his attending physician in which the attending physician approves of the designation of the primary caregiver.

3. The department or its designee shall issue a registry identification card to a person who is under 18 years of age if:

(a) The person submits the materials required pursuant to subsection 2; and

(b) The custodial parent or legal guardian with responsibility for health care decisions for the person under 18 years of age signs a written statement setting forth that:

(1) The attending physician of the person under 18 years of age has explained to that person and to the custodial parent or legal guardian with responsibility for health care decisions for the person under 18 years of age the possible risks and benefits of the medical use of marijuana;

(2) The custodial parent or legal guardian with responsibility for health care decisions for the person under 18 years of age consents to the use of marijuana by the person under 18 years of age for medical purposes;

(3) The custodial parent or legal guardian with responsibility for health care decisions for the person under 18 years of age agrees to serve as the designated primary caregiver for the person under 18 years of age; and

(4) The custodial parent or legal guardian with responsibility for health care decisions for the person under 18 years of age agrees to control the acquisition of marijuana and the dosage and frequency of use by the person under 18 years of age.

4. The form prescribed by the department to be used by a person applying for a registry identification card pursuant to this section must be a form that is in quintuplicate. Upon receipt of an application that is completed and submitted pursuant to this section, the department shall:

(a) Record on the application the date on which it was received;

(b) Retain one copy of the application for the records of the department; and

(c) Distribute the other four copies of the application in the following manner:

(1) One copy to the person who submitted the application;

(2) One copy to the applicant's designated primary caregiver, if any;

(3) One copy to the central repository for Nevada records of criminal history; and

(4) One copy to the board of medical examiners.

The central repository for Nevada records of criminal history shall report to the department its findings as to the criminal history, if any, of an

applicant within 15 days after receiving a copy of an application pursuant to subparagraph (3) of paragraph (c). The board of medical examiners shall report to the department its findings as to the licensure and standing of the applicant's attending physician within 15 days after receiving a copy of an application pursuant to subparagraph (4) of paragraph (c).

5. The department shall verify the information contained in an application submitted pursuant to this section and shall approve or deny an application within 30 days after receiving the application. The department may contact an applicant, his attending physician and designated primary caregiver, if any, by telephone to determine that the information provided on or accompanying the application is accurate. The department may deny an application only on the following grounds:

(a) The applicant failed to provide the information required pursuant to subsections 2 and 3 to:

(1) Establish his chronic or debilitating medical condition; or

(2) Document his consultation with an attending physician regarding the medical use of marijuana in connection with that condition;

(b) The applicant failed to comply with regulations adopted by the department, including, without limitation, the regulations adopted by the director pursuant to section 32 of this act;

(c) The department determines that the information provided by the applicant was falsified;

(d) The department determines that the attending physician of the applicant is not licensed to practice medicine in this state or is not in good standing, as reported by the board of medical examiners;

(e) The department determines that the applicant, or his designated primary caregiver, if applicable, has been convicted of knowingly or intentionally selling a controlled substance;

(f) The department has prohibited the applicant from obtaining or using a registry identification card pursuant to subsection 2 of section 24 of this act; or

(g) In the case of a person under 18 years of age, the custodial parent or legal guardian with responsibility for health care decisions for the person has not signed the written statement required pursuant to paragraph (b) of subsection 3.

6. The decision of the department to deny an application for a registry identification card is a final decision for the purposes of judicial review. Only the person whose application has been denied or, in the case of a person under 18 years of age whose application has been denied, the person's parent or legal guardian, has standing to contest the determination of the department. A judicial review authorized pursuant to this subsection must be limited to a determination of whether the denial was arbitrary, capricious or otherwise characterized by an abuse of discretion and must be conducted in accordance with the procedures set forth in chapter 233B of NRS for reviewing a final decision of an agency.

7. A person whose application has been denied may not reapply for 6 months after the date of the denial, unless the department or a court of competent jurisdiction authorizes reapplication in a shorter time.

8. Except as otherwise provided in this subsection, if a person has applied for a registry identification card pursuant to this section and the department has not yet approved or denied the application, the person, and his designated primary caregiver, if any, shall be deemed to hold a registry identification card upon the presentation to a law enforcement officer of the copy of the application provided to him pursuant to subsection 4. A person may not be deemed to hold a registry identification card for a period of more than 30 days after the date on which the department received the application.

Sec. 20. *1. If the department approves an application pursuant to subsection 5 of section 19 of this act, the department or its designee shall, as soon as practicable after the department approves the application:*

(a) Issue a serially numbered registry identification card to the applicant; and

(b) If the applicant has designated a primary caregiver, issue a serially numbered registry identification card to the designated primary caregiver.

2. A registry identification card issued pursuant to paragraph (a) of subsection 1 must set forth:

(a) The name, address, photograph and date of birth of the applicant;

(b) The date of issuance and date of expiration of the registry identification card;

(c) The name and address of the applicant's designated primary caregiver, if any; and

(d) Any other information prescribed by regulation of the department.

3. A registry identification card issued pursuant to paragraph (b) of subsection 1 must set forth:

(a) The name, address and photograph of the designated primary caregiver;

(b) The date of issuance and date of expiration of the registry identification card;

(c) The name and address of the applicant for whom the person is the designated primary caregiver; and

(d) Any other information prescribed by regulation of the department.

4. A registry identification card issued pursuant to this section is valid for a period of 1 year and may be renewed in accordance with regulations adopted by the department.

Sec. 21. *1. A person to whom the department or its designee has issued a registry identification card pursuant to paragraph (a) of subsection 1 of section 20 of this act shall, in accordance with regulations adopted by the department:*

(a) Notify the department of any change in his name, address, telephone number, attending physician or designated primary caregiver, if any; and

(b) Submit annually to the department:

(1) Updated written documentation from his attending physician in which the attending physician sets forth that:

(I) The person continues to suffer from a chronic or debilitating medical condition;

(II) The medical use of marijuana may mitigate the symptoms or effects of that condition; and

(III) He has explained to the person the possible risks and benefits of the medical use of marijuana; and

(2) If he elects to designate a primary caregiver for the subsequent year and the primary caregiver so designated was not the person's designated primary caregiver during the previous year:

(I) The name, address, telephone number and social security number of the designated primary caregiver; and

(II) A written, signed statement from his attending physician in which the attending physician approves of the designation of the primary caregiver.

2. A person to whom the department or its designee has issued a registry identification card pursuant to paragraph (b) of subsection 1 of section 20 of this act or pursuant to section 23 of this act shall, in accordance with regulations adopted by the department, notify the department of any change in his name, address, telephone number or the identity of the person for whom he acts as designated primary caregiver.

3. If a person fails to comply with the provisions of subsection 1 or 2, the registry identification card issued to him shall be deemed expired. If the registry identification card of a person to whom the department or its designee issued the card pursuant to paragraph (a) of subsection 1 of section 20 of this act is deemed expired pursuant to this subsection, a registry identification card issued to the person's designated primary caregiver, if any, shall also be deemed expired. Upon the deemed expiration of a registry identification card pursuant to this subsection:

(a) The department shall send, by certified mail, return receipt requested, notice to the person whose registry identification card has been deemed expired, advising the person of the requirements of paragraph (b); and

(b) The person shall return his registry identification card to the department within 7 days after receiving the notice sent pursuant to paragraph (a).

Sec. 22. *If a person to whom the department or its designee has issued a registry identification card pursuant to paragraph (a) of subsection 1 of section 20 of this act is diagnosed by his attending physician as no longer having a chronic or debilitating medical condition, the person and his designated primary caregiver, if any, shall return their registry identification cards to the department within 7 days after notification of the diagnosis.*

Sec. 23. *1. If a person who applies to the department for a registry identification card or to whom the department or its designee has issued a registry identification card pursuant to paragraph (a) of subsection 1 of section 20 of this act desires to designate a primary caregiver, the person must:*

(a) To designate a primary caregiver at the time of application, submit to the department the information required pursuant to paragraph (d) of subsection 2 of section 19 of this act; or

(b) To designate a primary caregiver after the department or its designee has issued a registry identification card to him, submit to the department the information required pursuant to subparagraph (2) of paragraph (b) of subsection 1 of section 21 of this act.

2. A person may have only one designated primary caregiver at any one time.

3. If a person designates a primary caregiver after the time that he initially applies for a registry identification card, the department or its designee shall, except as otherwise provided in subsection 5 of section 19 of this act, issue a registry identification card to the designated primary caregiver as soon as practicable after receiving the information submitted pursuant to paragraph (b) of subsection 1.

Sec. 24. *1. A person who holds a registry identification card issued to him pursuant to section 20 or 23 of this act is not exempt from state prosecution for, nor may he establish an affirmative defense to charges arising from, any of the following acts:*

(a) Driving, operating or being in actual physical control of a vehicle or a vessel under power or sail while under the influence of marijuana.

(b) Engaging in any other conduct prohibited by NRS 484.379, 484.3795, subsection 2 of NRS 488.400, NRS 488.410, 488.420 or 493.130.

(c) Possessing a firearm in violation of paragraph (b) of subsection 1 of NRS 202.257.

(d) Possessing marijuana in violation of NRS 453.336 or possessing drug paraphernalia in violation of NRS 453.560 or 453.566, if the possession of the marijuana or drug paraphernalia is discovered because the person engaged or assisted in the medical use of marijuana in:

(1) Any public place or in any place open to the public or exposed to public view; or

(2) Any local detention facility, county jail, state prison, reformatory or other correctional facility, including, without limitation, any facility for the detention of juvenile offenders.

(e) Delivering marijuana to another person who he knows does not lawfully hold a registry identification card issued by the department or its designee pursuant to section 20 or 23 of this act.

(f) Delivering marijuana for consideration to any person, regardless of whether the recipient lawfully holds a registry identification card issued by the department or its designee pursuant to section 20 or 23 of this act.

2. In addition to any other penalty provided by law, if the department determines that a person has willfully violated a provision of this chapter or any regulation adopted by the department or division to carry out the provisions of this chapter, the department may, at its own discretion, prohibit the person from obtaining or using a registry identification card for a period of up to 6 months.

Sec. 25. *1. Except as otherwise provided in this section and section 24 of this act, it is an affirmative defense to a criminal charge of possession, delivery or production of marijuana, or any other criminal offense in which possession, delivery or production of marijuana is an element, that the person charged with the offense:*

(a) Is a person who:

(1) Has been diagnosed with a chronic or debilitating medical condition within the 12-month period preceding his arrest and has been advised by his attending physician that the medical use of marijuana may mitigate the symptoms or effects of that chronic or debilitating medical condition;

(2) Is engaged in the medical use of marijuana; and

(3) Possesses, delivers or produces marijuana only in the amount described in paragraph (b) of subsection 3 of section 17 of this act or in excess of that amount if the person proves by a preponderance of the evidence that the greater amount is medically necessary as determined by the person's attending physician to mitigate the symptoms or effects of the person's chronic or debilitating medical condition; or

(b) Is a person who:

(1) Is assisting a person described in paragraph (a) in the medical use of marijuana; and

(2) Possesses, delivers or produces marijuana only in the amount described in paragraph (b) of subsection 3 of section 17 of this act or in excess of that amount if the person proves by a preponderance of the evidence that the greater amount is medically necessary as determined by the assisted person's attending physician to mitigate the symptoms or effects of the assisted person's chronic or debilitating medical condition.

2. A person need not hold a registry identification card issued to him by the department or its designee pursuant to section 20 or 23 of this act to assert an affirmative defense described in this section.

3. Except as otherwise provided in this section and in addition to the affirmative defense described in subsection 1, a person engaged or assisting in the medical use of marijuana who is charged with a crime pertaining to the medical use of marijuana is not precluded from:

(a) Asserting a defense of medical necessity; or

(b) Presenting evidence supporting the necessity of marijuana for treatment of a specific disease or medical condition,

if the amount of marijuana at issue is not greater than the amount described in paragraph (b) of subsection 3 of section 17 of this act and the person has taken steps to comply substantially with the provisions of this chapter.

4. A defendant who intends to offer an affirmative defense described in this section shall, not less than 5 days before trial or at such other time as the court directs, file and serve upon the prosecuting attorney a written notice of his intent to claim the affirmative defense. The written notice must:

(a) State specifically why the defendant believes he is entitled to assert the affirmative defense; and

(b) Set forth the factual basis for the affirmative defense.

A defendant who fails to provide notice of his intent to claim an affirmative defense as required pursuant to this subsection may not assert the affirmative defense at trial unless the court, for good cause shown, orders otherwise.

Sec. 26. *1. The fact that a person possesses a registry identification card issued to him by the department or its designee pursuant to section 20 or 23 of this act does not, alone:*

(a) Constitute probable cause to search the person or his property; or

(b) Subject the person or his property to inspection by any governmental agency.

2. Except as otherwise provided in this subsection, if officers of a state or local law enforcement agency seize marijuana, drug paraphernalia or other related property from a person engaged or assisting in the medical use of marijuana:

(a) The law enforcement agency shall ensure that the marijuana, drug paraphernalia or other related property is not destroyed while in the possession of the law enforcement agency.

(b) Any property interest of the person from whom the marijuana, drug paraphernalia or other related property was seized must not be forfeited pursuant to any provision of law providing for the forfeiture of property, except as part of a sentence imposed after conviction of a criminal offense.

(c) Upon a determination by the district attorney of the county in which the marijuana, drug paraphernalia or other related property was seized, or his designee, that the person from whom the marijuana, drug paraphernalia or other related property was seized is engaging in or assisting in the medical use of marijuana in accordance with the provisions of this chapter, the law enforcement agency shall immediately return to that person any usable marijuana, marijuana plants, drug paraphernalia or other related property that was seized.

The provisions of this subsection do not require a law enforcement agency to care for live marijuana plants.

3. For the purposes of paragraph (c) of subsection 2, the determination of a district attorney or his designee that a person is engaging in or assisting in the medical use of marijuana in accordance with the provisions of this chapter shall be deemed to be evidenced by:

(a) A decision not to prosecute;

(b) The dismissal of charges; or

(c) Acquittal.

Sec. 27. *The board of medical examiners shall not take any disciplinary action against an attending physician on the basis that the attending physician:*

1. Advised a person whom the attending physician has diagnosed as having a chronic or debilitating medical condition, or a person whom the attending physician knows has been so diagnosed by another physician licensed to practice medicine pursuant to the provisions of chapter 630 of NRS:

(a) About the possible risks and benefits of the medical use of marijuana; or

(b) That the medical use of marijuana may mitigate the symptoms or effects of the person's chronic or debilitating medical condition,

if the advice is based on the attending physician's personal assessment of the person's medical history and current medical condition.

2. Provided the written documentation required pursuant to paragraph (a) of subsection 2 of section 19 of this act for the issuance of a registry identification card or pursuant to subparagraph (1) of paragraph (b) of subsection 1 of section 21 of this act for the renewal of a registry identification card, if:

(a) Such documentation is based on the attending physician's personal assessment of the person's medical history and current medical condition; and

(b) The physician has advised the person about the possible risks and benefits of the medical use of marijuana.

Sec. 28. *A professional licensing board shall not take any disciplinary action against a person licensed by the board on the basis that:*

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

2. The person acts as or has acted as the designated primary caregiver of a person who holds a registry identification card issued to him pursuant to paragraph (a) of subsection 1 of section 20 of this act.

Sec. 29. *1. Except as otherwise provided in this section and subsection 4 of section 19 of this act, the department and any designee of the department shall maintain the confidentiality of and shall not disclose:*

(a) The contents of any applications, records or other written documentation that the department or its designee creates or receives pursuant to the provisions of this chapter; or

(b) The name or any other identifying information of:

(1) An attending physician; or

(2) A person who has applied for or to whom the department or its designee has issued a registry identification card.

The items of information described in this subsection are confidential, not subject to subpoena or discovery and not subject to inspection by the general public.

2. Notwithstanding the provisions of subsection 1, the department or its designee may release the name and other identifying information of a person to whom the department or its designee has issued a registry identification card to:

(a) Authorized employees of the department or its designee as necessary to perform official duties of the department; and

(b) Authorized employees of state and local law enforcement agencies, only as necessary to verify that a person is the lawful holder of a registry identification card issued to him pursuant to section 20 or 23 of this act.

Sec. 30. *1. A person may submit to the division a petition requesting that a particular disease or condition be included among the diseases and conditions that qualify as chronic or debilitating medical conditions pursuant to section 6 of this act.*

2. The division shall adopt regulations setting forth the manner in which the division will accept and evaluate petitions submitted pursuant to this section. The regulations must provide, without limitation, that:

(a) The division will approve or deny a petition within 180 days after the division receives the petition;

(b) If the division approves a petition, the division will, as soon as practicable thereafter, transmit to the department information concerning the disease or condition that the division has approved; and

(c) The decision of the division to deny a petition is a final decision for the purposes of judicial review.

Sec. 30.1. *1. The University of Nevada School of Medicine shall establish a program for the evaluation and research of the medical use of marijuana in the care and treatment of persons who have been diagnosed with a chronic or debilitating medical condition.*

2. Before the School of Medicine establishes a program pursuant to subsection 1, the School of Medicine shall aggressively seek and must receive approval of the program by the Federal Government pursuant to 21 U.S.C. § 823 or other applicable provisions of federal law, to allow the creation of a federally approved research program for the use and distribution of marijuana for medical purposes.

3. A research program established pursuant to this section must include residents of this state who volunteer to act as participants and subjects, as determined by the School of Medicine.

4. A resident of this state who wishes to serve as a participant and subject in a research program established pursuant to this section may notify the School of Medicine and may apply to participate by submitting an application on a form prescribed by the department of administration of the School of Medicine.

5. The School of Medicine shall, on a quarterly basis, report to the interim finance committee with respect to:

(a) The progress made by the School of Medicine in obtaining federal approval for the research program; and

(b) If the research program receives federal approval, the status of, activities of and information received from the research program.

Sec. 30.2. *1. Except as otherwise provided in this section, the University of Nevada School of Medicine shall maintain the confidentiality of and shall not disclose:*

(a) The contents of any applications, records or other written materials that the School of Medicine creates or receives pursuant to the research program described in section 30.1 of this act; or

(b) The name or any other identifying information of a person who has applied to or who participates in the research program described in section 30.1 of this act.

The items of information described in this subsection are confidential, not subject to subpoena or discovery and not subject to inspection by the general public.

2. Notwithstanding the provisions of subsection 1, the School of Medicine may release the name and other identifying information of a person who has applied to or who participates in the research program described in section 30.1 to:

(a) Authorized employees of the State of Nevada as necessary to perform official duties related to the research program; and

(b) Authorized employees of state and local law enforcement agencies, only as necessary to verify that a person is a lawful participant in the research program.

Sec. 30.3. *1. The department of administration of the University of Nevada School of Medicine may apply for or accept any gifts, grants, donations or contributions from any source to carry out the provisions of section 30.1 of this act.*

2. Any money the department of administration receives pursuant to subsection 1 must be deposited in the state treasury pursuant to section 30.4 of this act.

Sec. 30.4. *1. Any money the department of administration of the University of Nevada School of Medicine receives pursuant to section 30.3 of this act or that is appropriated to carry out the provisions of section 30.1 of this act:*

(a) Must be deposited in the state treasury and accounted for separately in the state general fund;

(b) May only be used to carry out the provisions of section 30.1 of this act, including the dissemination of information concerning the provisions of that section and such other information as is determined appropriate by the department of administration; and

(c) Does not revert to the state general fund at the end of any fiscal year.

2. The department of administration of the School of Medicine shall administer the account. Any interest or income earned on the money in the account must be credited to the account. Any claims against the account must be paid as other claims against the state are paid.

Sec. 30.5. *The department shall vigorously pursue the approval of the Federal Government to establish:*

1. A bank or repository of seeds that may be used to grow marijuana by persons who use marijuana in accordance with the provisions of sections 2 to 33, inclusive, of this act.

2. A program pursuant to which the department may produce and deliver marijuana to persons who use marijuana in accordance with the provisions of sections 2 to 33, inclusive, of this act.

Sec. 31. *The provisions of this chapter do not:*

1. Require an insurer, organization for managed care or any person or entity who provides coverage for a medical or health care service to pay for or reimburse a person for costs associated with the medical use of marijuana.

2. Require any employer to accommodate the medical use of marijuana in the workplace.

Sec. 31.3. *1. The director of the department may apply for or accept any gifts, grants, donations or contributions from any source to carry out the provisions of this chapter.*

2. Any money the director receives pursuant to subsection 1 must be deposited in the state treasury pursuant to section 31.7 of this act.

Sec. 31.7. *1. Any money the director of the department receives pursuant to section 31.3 of this act or that is appropriated to carry out the provisions of this chapter:*

(a) Must be deposited in the state treasury and accounted for separately in the state general fund;

(b) May only be used to carry out the provisions of this chapter, including the dissemination of information concerning the provisions of

sections 2 to 33, inclusive, of this act and such other information as determined appropriate by the director; and

(c) Does not revert to the state general fund at the end of any fiscal year.

2. The director of the department shall administer the account. Any interest or income earned on the money in the account must be credited to the account. Any claims against the account must be paid as other claims against the state are paid.

Sec. 32. ***The director of the department shall adopt such regulations as the director determines are necessary to carry out the provisions of this chapter. The regulations must set forth, without limitation:***

1. Procedures pursuant to which the state department of agriculture will, in cooperation with the department of motor vehicles and public safety, cause a registry identification card to be prepared and issued to a qualified person as a type of identification card described in NRS 483.810 to 483.890, inclusive. The procedures described in this subsection must provide that the state department of agriculture will:

(a) Issue a registry identification card to a qualified person after the card has been prepared by the department of motor vehicles and public safety; or

(b) Designate the department of motor vehicles and public safety to issue a registry identification card to a person if:

(1) The person presents to the department of motor vehicles and public safety valid documentation issued by the state department of agriculture indicating that the state department of agriculture has approved the issuance of a registry identification card to the person; and

(2) The department of motor vehicles and public safety, before issuing the registry identification card, confirms by telephone or other reliable means that the state department of agriculture has approved the issuance of a registry identification card to the person.

2. Criteria for determining whether a marijuana plant is a mature marijuana plant or an immature marijuana plant.

Sec. 33. ***The state must not be held responsible for any deleterious outcomes from the medical use of marijuana by any person.***

Sec. 34. Chapter 453 of NRS is hereby amended by adding thereto the provisions set forth as sections 35 and 36 of this act.

Sec. 35. ***The provisions of this chapter do not apply to the extent that they are inconsistent with the provisions of sections 2 to 33, inclusive, of this act.***

Sec. 36. ***1. A local authority may enact an ordinance adopting the penalties set forth for misdemeanors in NRS 453.336 for similar offenses under a local ordinance. The ordinance must set forth the manner in which money collected from fines imposed by a court for a violation of the ordinance must be disbursed in accordance with subsection 2.***

2. Money collected from fines imposed by a court for a violation of an ordinance enacted pursuant to subsection 1 must be evenly allocated among:

(a) Nonprofit programs for the treatment of abuse of alcohol or drugs that are certified by the bureau of alcohol and drug abuse in the department;

(b) A program of treatment and rehabilitation established by a court pursuant to NRS 453.580, if any; and

(c) Local law enforcement agencies,

in a manner determined by the court.

3. As used in this section, "local authority" means the governing board of a county, city or other political subdivision having authority to enact ordinances.

Sec. 37. NRS 453.336 is hereby amended to read as follows:

453.336 1. A person shall not knowingly or intentionally possess a controlled substance, unless the substance was obtained directly from, or pursuant to, a prescription or order of a physician, osteopathic physician's assistant, physician assistant, dentist, podiatric physician, optometrist, advanced practitioner of nursing or veterinarian while acting in the course of his professional practice, or except as otherwise authorized by the provisions of NRS 453.011 to 453.552, inclusive ~~[.]~~ ***, and sections 35 and 36 of this act.***

2. Except as otherwise provided in subsections 3 ~~[, 4 and 5]~~ ***and 4*** and in NRS 453.3363, and unless a greater penalty is provided in NRS 212.160, 453.3385, 453.339 or 453.3395, a person who violates this section shall be punished:

(a) For the first or second offense, if the controlled substance is listed in schedule I, II, III or IV, for a category E felony as provided in NRS 193.130.

(b) For a third or subsequent offense, if the controlled substance is listed in schedule I, II, III or IV, or if the offender has previously been convicted two or more times in the aggregate of any violation of the law of the United States or of any state, territory or district relating to a controlled substance, for a category D felony as provided in NRS 193.130, and may be further punished by a fine of not more than $20,000.

(c) For the first offense, if the controlled substance is listed in schedule V, for a category E felony as provided in NRS 193.130.

(d) For a second or subsequent offense, if the controlled substance is listed in schedule V, for a category D felony as provided in NRS 193.130.

3. Unless a greater penalty is provided in NRS 212.160, 453.337 or 453.3385, a person who is convicted of the possession of flunitrazepam or gamma-hydroxybutyrate, or any substance for which flunitrazepam or gamma-hydroxybutyrate is an immediate precursor, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years.

4. ~~[Unless a greater penalty is provided in NRS 212.160, a person who is less than 21 years of age and is convicted of the possession of less than 1 ounce of marijuana:~~

~~(a) For the first and second offense, is guilty of a category E felony and shall be punished as provided in NRS 193.130.~~

~~(b) For a third or subsequent offense, is guilty of a category D felony and shall be punished as provided in NRS 193.130, and may be further punished by a fine of not more than $20,000.~~

~~5. Before sentencing under the provisions of subsection 4 for a first offense, the court shall require the parole and probation officer to submit a~~

~~presentencing report on the person convicted in accordance with the provisions of NRS 176A.200. After the report is received but before sentence is pronounced the court shall:~~

~~(a) Interview the person convicted and make a determination as to the possibility of his rehabilitation; and~~

~~(b) Conduct a hearing at which evidence may be presented as to the possibility of rehabilitation and any other relevant information.~~

~~6.~~ ***Unless a greater penalty is provided pursuant to NRS 212.160, a person who is convicted of the possession of 1 ounce or less of marijuana:***

(a) For the first offense, is guilty of a misdemeanor and shall be:

(1) Punished by a fine of not more than $600; or

(2) Examined by an approved facility for the treatment of abuse of drugs to determine whether he is a drug addict and is likely to be rehabilitated through treatment and, if the examination reveals that he is a drug addict and is likely to be rehabilitated through treatment, assigned to a program of treatment and rehabilitation pursuant to NRS 453.580.

(b) For the second offense, is guilty of a misdemeanor and shall be:

(1) Punished by a fine of not more than $1,000; or

(2) Assigned to a program of treatment and rehabilitation pursuant to NRS 453.580.

(c) For the third offense, is guilty of a gross misdemeanor and shall be punished as provided in NRS 193.140.

(d) For a fourth or subsequent offense, is guilty of a category E felony and shall be punished as provided in NRS 193.130.

5. As used in this section, "controlled substance" includes flunitrazepam, gamma-hydroxybutyrate and each substance for which flunitrazepam or gamma-hydroxybutyrate is an immediate precursor.

Sec. 38. NRS 453.3363 is hereby amended to read as follows:

453.3363 1. If a person who has not previously been convicted of any offense pursuant to NRS 453.011 to 453.552, inclusive, and sections 2 to 12, inclusive, of ***Senate Bill No. 397 of*** this ~~[act]~~ ***session*** or pursuant to any statute of the United States or of any state relating to narcotic drugs, marijuana, or stimulant, depressant or hallucinogenic substances tenders a plea of guilty, guilty but mentally ill, nolo contendere or similar plea to a charge pursuant to ***subsection 2 or 3 of*** NRS 453.336, ***NRS*** 453.411 or 454.351, or is found guilty of one of those charges, the court, without entering a judgment of conviction and with the consent of the accused, may suspend further proceedings and place him on probation upon terms and conditions that must include attendance and successful completion of an educational program or, in the case of a person dependent upon drugs, of a program of treatment and rehabilitation pursuant to NRS 453.580.

2. Upon violation of a term or condition, the court may enter a judgment of conviction and proceed as provided in the section pursuant to which the accused was charged. Notwithstanding the provisions of paragraph (e) of subsection 2 of NRS 193.130, upon violation of a term or condition, the court may order the person to the custody of the department of prisons.

3. Upon fulfillment of the terms and conditions, the court shall discharge the accused and dismiss the proceedings against him. A

nonpublic record of the dismissal must be transmitted to and retained by the division of parole and probation of the department of motor vehicles and public safety solely for the use of the courts in determining whether, in later proceedings, the person qualifies under this section.

4. Except as otherwise provided in subsection 5, discharge and dismissal under this section is without adjudication of guilt and is not a conviction for purposes of this section or for purposes of employment, civil rights or any statute or regulation or license or questionnaire or for any other public or private purpose, but is a conviction for the purpose of additional penalties imposed for second or subsequent convictions or the setting of bail. Discharge and dismissal restores the person discharged, in the contemplation of the law, to the status occupied before the arrest, indictment or information. He may not be held thereafter under any law to be guilty of perjury or otherwise giving a false statement by reason of failure to recite or acknowledge that arrest, indictment, information or trial in response to an inquiry made of him for any purpose. Discharge and dismissal under this section may occur only once with respect to any person.

5. A professional licensing board may consider a proceeding under this section in determining suitability for a license or liability to discipline for misconduct. Such a board is entitled for those purposes to a truthful answer from the applicant or licensee concerning any such proceeding with respect to him.

Sec. 39. NRS 453.401 is hereby amended to read as follows:

453.401 1. Except as otherwise provided in subsections 3 and 4, if two or more persons conspire to commit an offense which is a felony under the Uniform Controlled Substances Act or conspire to defraud the State of Nevada or an agency of the state in connection with its enforcement of the Uniform Controlled Substances Act, and one of the conspirators does an act in furtherance of the conspiracy, each conspirator:

(a) For a first offense, is guilty of a category C felony and shall be punished as provided in NRS 193.130.

(b) For a second offense, or if, in the case of a first conviction of violating this subsection, the conspirator has previously been convicted of a felony under the Uniform Controlled Substances Act or of an offense under the laws of the United States or of any state, territory or district which if committed in this state, would amount to a felony under the Uniform Controlled Substances Act, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 10 years, and may be further punished by a fine of not more than $10,000.

(c) For a third or subsequent offense, or if the conspirator has previously been convicted two or more times of a felony under the Uniform Controlled Substances Act or of an offense under the laws of the United States or any state, territory or district which, if committed in this state, would amount to a felony under the Uniform Controlled Substances Act, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 3 years and a maximum term of not more than 15 years, and may be further punished by a fine of not more than $20,000 for each offense.

2. Except as otherwise provided in subsection 3, if two or more persons conspire to commit an offense in violation of the Uniform Controlled Substances Act and the offense does not constitute a felony, and one of the conspirators does an act in furtherance of the conspiracy, each conspirator shall be punished by imprisonment, or by imprisonment and fine, for not more than the maximum punishment provided for the offense which they conspired to commit.

3. If two or more persons conspire to possess ***more than 1 ounce of*** marijuana unlawfully, except for the purpose of sale, and one of the conspirators does an act in furtherance of the conspiracy, each conspirator is guilty of a gross misdemeanor.

4. If the conspiracy subjects the conspirators to criminal liability under NRS 207.400, the persons so conspiring shall be punished in the manner provided in NRS 207.400.

5. The court shall not grant probation to or suspend the sentence of a person convicted of violating this section and punishable pursuant to paragraph (b) or (c) of subsection 1.

Sec. 40. NRS 453.580 is hereby amended to read as follows:

453.580 1. A court may establish an appropriate treatment program to which it may assign a person pursuant to ***subsection 4 of NRS 453.336,*** NRS 453.3363 or 458.300 or it may assign such a person to an appropriate facility for the treatment of abuse of alcohol or drugs which is certified by the health division of the department of human resources. The assignment must include the terms and conditions for successful completion of the program and provide for progress reports at intervals set by the court to ensure that the person is making satisfactory progress towards completion of the program.

2. A program to which a court assigns a person pursuant to subsection 1 must include:

(a) Information and encouragement for the participant to cease abusing alcohol or using controlled substances through educational, counseling and support sessions developed with the cooperation of various community, health, substance abuse, religious, social service and youth organizations;

(b) The opportunity for the participant to understand the medical, psychological and social implications of substance abuse; and

(c) Alternate courses within the program based on the different substances abused and the addictions of participants.

3. If the offense with which the person was charged involved the use or possession of a controlled substance, in addition to the program or as a part of the program the court must also require frequent urinalysis to determine that the person is not using a controlled substance. The court shall specify how frequent such examinations must be and how many must be successfully completed, independently of other requisites for successful completion of the program.

4. Before the court assigns a person to a program pursuant to this section, the person must agree to pay the cost of the program to which he is assigned and the cost of any additional supervision required pursuant to subsection 3, to the extent of his financial resources. If the person does not have the financial resources to pay all of the related costs, the court shall, to the extent practicable, arrange for the person to be assigned to a program

at a facility that receives a sufficient amount of federal or state funding to offset the remainder of the costs.

Sec. 41. NRS 455B.080 is hereby amended to read as follows:

455B.080 1. A passenger shall not embark on an amusement ride while intoxicated or under the influence of a controlled substance, unless in accordance with ~~[a]~~ ***:***

(a) A prescription lawfully issued to the person ~~[.]~~ ***; or***

(b) The provisions of sections 2 to 33, inclusive, of this act.

2. An authorized agent or employee of an operator may prohibit a passenger from boarding an amusement ride if he reasonably believes that the passenger is under the influence of alcohol, prescription drugs or a controlled substance. An agent or employee of an operator is not civilly or criminally liable for prohibiting a passenger from boarding an amusement ride pursuant to this subsection.

Sec. 42. NRS 52.395 is hereby amended to read as follows:

52.395 ***Except as otherwise provided in section 26 of this act:***

1. When any substance alleged to be a controlled substance, dangerous drug or immediate precursor is seized from a defendant by a peace officer, the law enforcement agency of which the officer is a member may, with the prior approval of the prosecuting attorney, petition the district court in the county in which the defendant is charged to secure permission to destroy a part of the substance.

2. Upon receipt of a petition filed pursuant to subsection 1, the district court shall order the substance to be accurately weighed and the weight thereof accurately recorded. The prosecuting attorney or his representative and the defendant or his representative must be allowed to inspect and weigh the substance.

3. If after completion of the weighing process the defendant does not knowingly and voluntarily stipulate to the weight of the substance, the district court shall hold a hearing to make a judicial determination of the weight of the substance. The defendant, his attorney and any other witness the defendant may designate may be present and testify at the hearing.

4. After a determination has been made as to the weight of the substance, the district court may order all of the substance destroyed except that amount which is reasonably necessary to enable each interested party to analyze the substance to determine the composition of the substance. The district court shall order the remaining sample to be sealed and maintained for analysis before trial.

5. If the substance is finally determined not to be a controlled substance, dangerous drug or immediate precursor, unless the substance was destroyed pursuant to subsection 7, the owner may file a claim against the county to recover the reasonable value of the property destroyed pursuant to this section.

6. The district court's finding as to the weight of a substance destroyed pursuant to this section is admissible in any subsequent proceeding arising out of the same transaction.

7. If at the time that a peace officer seizes from a defendant a substance believed to be a controlled substance, dangerous drug or immediate precursor, the peace officer discovers any material or substance that he reasonably believes is hazardous waste, the peace officer may

appropriately dispose of the material or substance without securing the permission of a court.

8. As used in this section:

(a) "Dangerous drug" has the meaning ascribed to it in NRS 454.201.

(b) "Hazardous waste" has the meaning ascribed to it in NRS 459.430.

(c) "Immediate precursor" has the meaning ascribed to it in NRS 453.086.

Sec. 43. (Deleted by amendment.)

Sec. 44. NRS 159.061 is hereby amended to read as follows:

159.061 1. The parents of a minor, or either parent, if qualified and suitable, are preferred over all others for appointment as guardian for the minor. In determining whether the parents of a minor, or either parent, is qualified and suitable, the court shall consider, without limitation:

(a) Which parent has physical custody of the minor;

(b) The ability of the parents or parent to provide for the basic needs of the child, including, without limitation, food, shelter, clothing and medical care;

(c) Whether the parents or parent has engaged in the habitual use of alcohol or any controlled substance during the previous 6 months ~~[.]~~ ***, except the use of marijuana in accordance with the provisions of sections 2 to 33, inclusive, of this act;*** and

(d) Whether the parents or parent has been convicted of a crime of moral turpitude, a crime involving domestic violence or a crime involving the exploitation of a child.

2. Subject to the preference set forth in subsection 1, the court shall appoint as guardian for an incompetent, a person of limited capacity or minor the qualified person who is most suitable and is willing to serve.

3. In determining who is most suitable, the court shall give consideration, among other factors, to:

(a) Any request for the appointment as guardian for an incompetent contained in a written instrument executed by the incompetent while competent.

(b) Any nomination of a guardian for an incompetent, minor or person of limited capacity contained in a will or other written instrument executed by a parent or spouse of the proposed ward.

(c) Any request for the appointment as guardian for a minor 14 years of age or older made by the minor.

(d) The relationship by blood or marriage of the proposed guardian to the proposed ward.

(e) Any recommendation made by a special master pursuant to NRS 159.0615.

Sec. 45. NRS 213.123 is hereby amended to read as follows:

213.123 1. Upon the granting of parole to a prisoner, the board may, when the circumstances warrant, require as a condition of parole that the parolee submit to periodic tests to determine whether the parolee is using any controlled substance. Any such use ***, except the use of marijuana in accordance with the provisions of sections 2 to 33, inclusive, of this act,*** or any failure or refusal to submit to a test is a ground for revocation of parole.

2. Any expense incurred as a result of any test is a charge against the division.

Sec. 46. NRS 616C.230 is hereby amended to read as follows:

616C.230 1. Compensation is not payable pursuant to the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS for an injury:

(a) Caused by the employee's willful intention to injure himself.

(b) Caused by the employee's willful intention to injure another.

(c) Proximately caused by the employee's intoxication. If the employee was intoxicated at the time of his injury, intoxication must be presumed to be a proximate cause unless rebutted by evidence to the contrary.

(d) Proximately caused by the employee's use of a controlled substance. If the employee had any amount of a controlled substance in his system at the time of his injury for which the employee did not have a current and lawful prescription issued in his name ~~[,]~~ ***or that he was not using in accordance with the provisions of sections 2 to 33, inclusive, of this act,*** the controlled substance must be presumed to be a proximate cause unless rebutted by evidence to the contrary.

2. For the purposes of paragraphs (c) and (d) of subsection 1:

(a) The affidavit or declaration of an expert or other person described in NRS 50.315 is admissible to prove the existence of any alcohol or the existence, quantity or identity of a controlled substance in an employee's system. If the affidavit or declaration is to be so used, it must be submitted in the manner prescribed in NRS 616C.355.

(b) When an examination requested or ordered includes testing for the use of alcohol or a controlled substance, the laboratory that conducts the testing must be licensed pursuant to the provisions of chapter 652 of NRS.

3. No compensation is payable for the death, disability or treatment of an employee if his death is caused by, or insofar as his disability is aggravated, caused or continued by, an unreasonable refusal or neglect to submit to or to follow any competent and reasonable surgical treatment or medical aid.

4. If any employee persists in an unsanitary or injurious practice that imperils or retards his recovery, or refuses to submit to such medical or surgical treatment as is necessary to promote his recovery, his compensation may be reduced or suspended.

5. An injured employee's compensation, other than accident benefits, must be suspended if:

(a) A physician or chiropractor determines that the employee is unable to undergo treatment, testing or examination for the industrial injury solely because of a condition or injury that did not arise out of and in the course of his employment; and

(b) It is within the ability of the employee to correct the nonindustrial condition or injury.

The compensation must be suspended until the injured employee is able to resume treatment, testing or examination for the industrial injury. The insurer may elect to pay for the treatment of the nonindustrial condition or injury.

Sec. 47. NRS 630.3066 is hereby amended to read as follows:

630.3066 A physician is not subject to disciplinary action solely for ~~[prescribing]~~ ***:***

1. Prescribing or administering to a patient under his care a controlled substance which is listed in schedule II, III, IV or V by the state board of pharmacy pursuant to NRS 453.146, if the controlled substance is lawfully prescribed or administered for the treatment of intractable pain in accordance with regulations adopted by the board.

2. Engaging in any activity in accordance with the provisions of sections 2 to 33, inclusive, of this act.

Sec. 48. (Deleted by amendment.)

Sec. 48.5. 1. The 72nd session of the Nevada legislature shall review statistics provided by the legislative counsel bureau with respect to:

(a) Whether persons exempt from state prosecution pursuant to section 17 of this act have been subject to federal prosecution for carrying out the activities concerning which they are exempt from state prosecution pursuant to that section;

(b) The number of persons who participate in the medical use of marijuana in accordance with the provisions of sections 2 to 33, inclusive, of this act; and

(c) The number of persons who are arrested and convicted for drug related offenses within the State of Nevada, to enable appropriations for budgets to be established at levels to provide adequate and appropriate drug treatment within this state.

2. If, after conducting the review described in subsection 1, the 72nd session of the Nevada legislature determines that the medical use of marijuana in accordance with the provisions of sections 2 to 33, inclusive, of this act is not in the best interests of the residents of this state, the legislature shall revise those provisions as it deems appropriate.

Sec. 49. The amendatory provisions of this act do not apply to offenses committed before October 1, 2001.

Sec. 50. 1. This section becomes effective upon passage and approval.

2. Sections 6, 20, 21, 30 and 32 of this act become effective upon passage and approval for the purpose of adopting regulations and on October 1, 2001, for all other purposes.

3. Sections 1 to 5, inclusive, 7 to 19, inclusive, 22 to 29, inclusive, 30.1 to 30.5, inclusive, 31, 31.3, 31.7, 33 to 36, inclusive, 38 to 47, inclusive, 48.5 and 49 of this act become effective on October 1, 2001.

4. Section 37 of this act becomes effective at 12:01 a.m. on October 1, 2001.