

SENATE BILL NO. 545—COMMITTEE ON HUMAN
RESOURCES AND FACILITIES

MARCH 26, 2001

Referred to Committee on Finance

SUMMARY—Creates state commission for approval of research programs for medical use of marijuana. (BDR 40-1248)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Contains Appropriation not included in Executive Budget.

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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 public health; creating a state commission for the approval of research programs for the medical use of marijuana; prescribing the membership and duties of the commission; authorizing persons to apply to the commission for approval of research programs for the medical use of marijuana; providing immunity from civil and criminal liability for the possession and delivery of marijuana under certain circumstances; making an appropriation; and providing other matters properly relating thereto.

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

- 1 **Section 1.** Title 40 of NRS is hereby amended by adding thereto a
2 new chapter to consist of the provisions set forth as sections 2 to 16,
3 inclusive, of this act.
4 **Sec. 2.** *As used in this chapter, unless the context otherwise*
5 *requires, the words and terms defined in sections 3 to 9, inclusive, of this*
6 *act have the meanings ascribed to them in those sections.*
7 **Sec. 3.** *“Cachexia” means general physical wasting and*
8 *malnutrition associated with chronic disease.*
9 **Sec. 4.** *“Chronic or debilitating medical condition” means:*
10 1. *Acquired immune deficiency syndrome;*
11 2. *Cancer;*
12 3. *Glaucoma; and*
13 4. *A medical condition or treatment for a medical condition that*
14 *produces, for a specific patient, one or more of the following:*
15 (a) *Cachexia;*
16 (b) *Persistent muscle spasms, including, without limitation, spasms*
17 *caused by multiple sclerosis;*



- 1 (c) Seizures, including, without limitation, seizures caused by
2 epilepsy;
3 (d) Severe nausea; or
4 (e) Severe pain.
5 Sec. 5. "Delivery" has the meaning ascribed to it in NRS 453.051.
6 Sec. 6. "Drug paraphernalia" has the meaning ascribed to it in NRS
7 453.554.
8 Sec. 7. "Marijuana" has the meaning ascribed to it in NRS 453.096.
9 Sec. 8. "Medical use of marijuana" means the possession or delivery
10 of marijuana, or paraphernalia used to administer marijuana, as
11 necessary for the exclusive benefit of a person to mitigate the symptoms
12 or effects of his chronic or debilitating medical condition.
13 Sec. 9. "State commission" means the state commission for the
14 approval of research programs for the medical use of marijuana created
15 by section 10 of this act.
16 Sec. 10. 1. The state commission for the approval of research
17 programs for the medical use of marijuana is hereby created. The state
18 commission consists of nine members appointed by the governor as
19 follows:
20 (a) Four members who are physicians licensed pursuant to chapter
21 630 or 633 of NRS, as applicable, and who:
22 (1) Are actively engaged in the practice of medicine or osteopathy
23 in this state;
24 (2) Have at least 5 years of experience in the practice of medicine
25 or osteopathy in this state; and
26 (3) Represent the specialties of practice that treat a chronic or
27 debilitating medical condition.
28 (b) Two members who are pharmacists registered pursuant to chapter
29 639 of NRS and who:
30 (1) Are actively engaged in the practice of pharmacy in this state;
31 and
32 (2) Have at least 5 years of experience in the practice of pharmacy
33 in this state.
34 (c) Three members who represent the general public and who are not
35 related by consanguinity or affinity within the third degree to a physician
36 or pharmacist who practices in this state.
37 The governor shall not appoint to serve on the state commission any
38 person who has a direct or indirect interest in a research program for the
39 medical use of marijuana.
40 2. To the extent practicable, a person who is appointed to serve on
41 the state commission pursuant to subsection 1 shall possess knowledge of
42 and experience in reading and interpreting research protocols and data
43 or possess specific knowledge of the research regarding the medical use
44 of marijuana.
45 3. Within 30 days after his appointment, a member of the state
46 commission shall take and subscribe to an oath to carry out his duties
47 pursuant to this chapter in a faithful and impartial manner.
48 4. The members of the state commission shall select a chairman and
49 vice chairman from among their membership.



1 5. After the initial terms, each member of the state commission
2 serves a term of 3 years. A member of the state commission may not serve
3 for more than three consecutive terms. If a vacancy occurs on the state
4 commission, the vacancy must be filled in the same manner as the
5 original appointment for the remainder of the unexpired term.

6 6. Each member of the state commission is entitled to receive for
7 each day or portion of a day that he attends a meeting of the state
8 commission or is otherwise engaged in the business of the state
9 commission:

10 (a) A salary of \$80; and

11 (b) The per diem allowance and travel expenses provided for state
12 officers and employees generally.

13 7. The health division of the department of human resources shall
14 provide administrative support to the state commission.

15 8. Each member of the state commission serves at the pleasure of the
16 governor.

17 **Sec. 11.** 1. The state commission shall hold two meetings each year
18 at the call of the chairman to review applications submitted to the
19 commission for the approval of a research program for the medical use
20 of marijuana. Within the limits of money available to the state
21 commission, the state commission may hold additional meetings at the
22 call of the chairman.

23 2. Five members of the state commission constitute a quorum for the
24 transaction of business. A majority vote of the members present is
25 required to take action with respect to any matter.

26 **Sec. 12.** 1. A person may submit an application to the state
27 commission for the approval of a research program for the medical use
28 of marijuana. An application must be submitted on a form provided by
29 the state commission.

30 2. The state commission shall review each application that it receives
31 to determine whether:

32 (a) The primary purpose of the proposed research program is to treat
33 or alleviate a chronic or debilitating medical condition; and

34 (b) The proposed research program:

35 (1) Adequately addresses the use of marijuana by a minor;

36 (2) Ensures appropriate methods for the supply of marijuana to the
37 persons participating in the research program;

38 (3) Incorporates adequate safeguards to ensure that the distribution
39 of marijuana for purposes of the program is made only to those persons
40 who are participating in the program and is not diverted for unlawful or
41 unauthorized use;

42 (4) Adequately protects the confidentiality of those persons who
43 participate in the program, and provides access to the identity of those
44 persons by authorized employees of state and local law enforcement
45 agencies only as is necessary to verify the status of a person as a
46 participant in an approved research program;

47 (5) Incorporates adequate protections for the health and safety of
48 the persons who participate in the program; and



- 1 (6) *Is likely to produce results that are scientifically and medically*
2 *valid.*
- 3 3. *The state commission shall make a determination on an*
4 *application within a reasonable period after receipt of the application. A*
5 *determination of the state commission is final and not subject to appeal.*
6 *The determination of the state commission must be based upon:*
- 7 (a) *The review of the application pursuant to subsection 2;*
8 (b) *Materials, if any, accompanying the application;*
9 (c) *Personal interviews conducted by the state commission, if any, of*
10 *the proponents of the application; and*
11 (d) *Any other information or materials relevant to the proposed*
12 *research program.*
- 13 4. *If the state commission approves a research program, the state*
14 *commission shall prepare a written statement indicating its approval of*
15 *the research program in a format that may be submitted by the applicant*
16 *if he requests registration in connection with the research program*
17 *pursuant to 21 U.S.C. § 823. A person shall not conduct a research*
18 *program for the medical use of marijuana until he has obtained the*
19 *appropriate approval from the Federal Government pursuant to 21*
20 *U.S.C. § 823, regardless of whether the state commission has approved of*
21 *the program.*
- 22 5. *To the extent that money is made available by legislative*
23 *appropriation or otherwise, the state commission may distribute money to*
24 *successful applicants who are registered to conduct the research program*
25 *pursuant to 21 U.S.C. § 823. The state commission may determine the*
26 *amount of money so distributed and any conditions for receipt of the*
27 *money.*
- 28 6. *If the Federal Government suspends or revokes the registration of*
29 *a person to conduct a research program, the approval of the research*
30 *program by the state commission shall automatically be deemed revoked.*
- 31 **Sec. 13.** *If the state commission, or any of its members, acting*
32 *pursuant to this chapter, initiates or assists in any proceeding concerning*
33 *an application for approval of a research program, the state commission*
34 *and its members are immune from any civil action for such initiation or*
35 *assistance or any consequential damages, if the state commission and its*
36 *members acted without malicious intent.*
- 37 **Sec. 14.** *Except as otherwise provided in section 15 of this act, if a*
38 *person has obtained the approval of the state commission for a research*
39 *program for the medical use of marijuana and that person is registered*
40 *to conduct the research program by the Federal Government pursuant to*
41 *21 U.S.C. § 823, the:*
- 42 1. *Person who conducts or operates the program and any person*
43 *working under his immediate direction, supervision or instruction for the*
44 *program;*
- 45 2. *Physicians and pharmacists assisting with the program and those*
46 *persons working under their immediate direction, supervision or*
47 *instruction for the program; and*
- 48 3. *Persons who participate in the program,*



1 *are exempt from criminal prosecution in this state and are immune from*
2 *civil and criminal liability in this state for the possession or delivery of*
3 *marijuana or drug paraphernalia.*

4 **Sec. 15.** *The provisions of this chapter do not:*

5 *1. Authorize the possession or delivery of marijuana for purposes*
6 *other than those related to a research program that has been approved by*
7 *the state commission and authorized pursuant to applicable federal law;*

8 *2. Require an insurer, organization for managed care or any person*
9 *or entity who provides coverage for a medical or health care service to*
10 *pay for or reimburse a person participating in an approved research*
11 *program for costs associated with the medical use of marijuana;*

12 *3. Protect a person against state prosecution or civil liability for any*
13 *act involving the possession or delivery of marijuana in a manner not*
14 *authorized pursuant to this chapter; or*

15 *4. Require an employer or any operator of a place of public*
16 *accommodation to authorize the medical use of marijuana on its*
17 *premises or otherwise make accommodations for the medical use of*
18 *marijuana.*

19 **Sec. 16.** *1. The state commission shall adopt regulations*
20 *prescribing the:*

21 *(a) Process for submission of an application by a person for the*
22 *approval of a research program pursuant to section 12 of this act;*

23 *(b) Criteria and type of investigation that will be applied by the state*
24 *commission in determining whether to approve an application;*

25 *(c) Conditions, if any, under which the state commission may allow a*
26 *person to resubmit an application that has been denied by the state*
27 *commission; and*

28 *(d) Except as otherwise provided in subsection 6 of section 12 of this*
29 *act, conditions under which the state commission may revoke its approval*
30 *of a research program.*

31 *2. The state commission may adopt regulations:*

32 *(a) As the state commission determines are necessary to carry out its*
33 *duties pursuant to this chapter.*

34 *(b) Not inconsistent with the constitution or laws of the United States,*
35 *or of this state, as the state commission determines are necessary to*
36 *protect the public with regard to the medical use of marijuana and the*
37 *distribution of marijuana for medical use.*

38 **Sec. 17.** Chapter 453 of NRS is hereby amended by adding thereto a
39 new section to read as follows:

40 *The provisions of this chapter do not apply to the extent that they are*
41 *inconsistent with the provisions of sections 2 to 16, inclusive, of this act.*

42 **Sec. 18.** NRS 630.3066 is hereby amended to read as follows:

43 630.3066 A physician is not subject to disciplinary action solely for
44 ~~prescribing~~:

45 *1. Prescribing or administering to a patient under his care:*

46 ~~1-1~~ *(a) Amygdalin (laetrile), if the patient has consented in writing to*
47 *the use of the substance.*

48 ~~1-2~~ *(b) Procaine hydrochloride with preservatives and stabilizers*
49 *(Gerovital H3).*



1 ~~13-1~~ (c) A controlled substance which is listed in schedule II, III, IV or
2 V by the state board of pharmacy pursuant to NRS 453.146, if the
3 controlled substance is lawfully prescribed or administered for the
4 treatment of intractable pain in accordance with accepted standards for the
5 practice of medicine.

6 *2. Conducting or assisting with a research program that has been*
7 *approved by the state commission for the approval of research programs*
8 *for the medical use of marijuana pursuant to section 12 of this act if the*
9 *person who conducts the program is registered pursuant to 21 U.S.C. §*
10 *823.*

11 **Sec. 19.** NRS 633.521 is hereby amended to read as follows:

12 633.521 An osteopathic physician is not subject to disciplinary action
13 solely for ~~prescribing~~:

14 *1. Prescribing* or administering to a patient under his care:

15 ~~11-1~~ (a) Amygdalin (laetrile), if the patient has consented to the use of
16 the substance.

17 ~~12-1~~ (b) Procaine hydrochloride with preservatives and stabilizers
18 (Gerovital H3).

19 ~~13-1~~ (c) A controlled substance which is listed in schedule II, III, IV or
20 V by the state board of pharmacy pursuant to NRS 453.146, if the
21 controlled substance is lawfully prescribed or administered for the
22 treatment of intractable pain in accordance with accepted standards for the
23 practice of osteopathic medicine.

24 *2. Conducting or assisting with a research program that has been*
25 *approved by the state commission for the approval of research programs*
26 *for the medical use of marijuana pursuant to section 12 of this act if the*
27 *person who conducts the program is registered pursuant to 21 U.S.C. §*
28 *823.*

29 **Sec. 20.** 1. There is hereby appropriated from the state general fund
30 to the health division of the department of human resources the sum of
31 \$3,000 for the payment of:

32 (a) The salaries, per diem allowances and travel expenses of the
33 members of the state commission for the approval of research programs for
34 the medical use of marijuana pursuant to section 10 of this act; and

35 (b) Incidental expenses of the health division incurred in providing
36 administrative assistance to the state commission.

37 2. Any remaining balance of the appropriation made by subsection 1
38 must not be committed for expenditure after June 30, 2003, and reverts to
39 the state general fund as soon as all payments of money committed have
40 been made.

41 **Sec. 21.** 1. On or before October 1, 2001, the governor shall appoint
42 the following members to the state commission for the approval of research
43 programs for the medical use of marijuana to terms expiring September 30,
44 2003:

45 (a) Two members pursuant to paragraph (a) of subsection 1 of section
46 10 of this act;

47 (b) One member pursuant to paragraph (b) of subsection 1 of section 10
48 of this act; and



1 (c) One member pursuant to paragraph (c) of subsection 1 of section 10
2 of this act.
3 2. On or before October 1, 2001, the governor shall appoint the
4 following members to the state commission for the approval of research
5 program for the medical use of marijuana to terms expiring on September
6 30, 2004:
7 (a) Two members pursuant to paragraph (a) of subsection 1 of section
8 10 of this act;
9 (b) One member pursuant to paragraph (b) of subsection 1 of section 10
10 of this act; and
11 (c) Two members pursuant to paragraph (c) of subsection 1 of section
12 10 of this act.
13 **Sec. 22.** 1. This section and sections 20 and 21 of this act become
14 effective on July 1, 2001.
15 2. Section 10 of this act becomes effective on July 1, 2001, for the
16 purpose of appointing members to the state commission for the approval of
17 research programs for the medical use of marijuana and on October 1,
18 2001, for all other purposes.
19 3. Sections 1 to 9, inclusive, and 11 to 19, inclusive, of this act become
20 effective on October 1, 2001.

