

Amendment No. 278

Senate Amendment to Senate Bill No. 374	(BDR 40-185)
Proposed by: Senate Committee on Judiciary	
Amends: Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

AAK/BJE



Date: 4/20/2017

S.B. No. 374—Prohibits certain entities from taking action against persons who engage in certain lawful activities relating to marijuana.
(BDR 40-185)



SENATE BILL NO. 374—SENATOR SEGERBLOM

MARCH 20, 2017

Referred to Committee on Judiciary

SUMMARY—~~[Prohibits certain entities from taking action against persons who engage in certain lawful activities relating to marijuana.]~~ 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 ~~[marijuana;]~~ 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; ~~[prohibiting an employer from taking adverse action against an employee for expressing opinions relating to marijuana; providing a penalty;]~~ 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:

Existing law authorizes a person to obtain a registry identification card to engage in the medical use of marijuana if, in addition to other requirements, the person submits valid, written documentation from the person's attending physician stating that the person has been diagnosed with a chronic or debilitating medical condition. (NRS 453A.210) Section 1 of this bill includes opioid addiction within the definition of "chronic or debilitating medical condition." (NRS 453A.050)

Existing law prohibits a professional licensing board from taking disciplinary action against a person licensed by the board on the basis that the person engages in the medical use of marijuana or acts as a designated primary caregiver for a person who holds a registry identification card or letter of approval. (NRS 453A.510) ~~Section 1.5~~ Section 1.5 of this bill prohibits a professional licensing board from taking disciplinary action against a person licensed by the board on the basis that the person holds a validly issued registry identification card or engages in lawful activity, pursuant to the person's licensed profession, relating to the medical use of marijuana or to a registered medical marijuana establishment. ~~Section 2~~ Section 2 of this bill prohibits a professional licensing board from taking disciplinary action on the basis that the person

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

~~Existing law makes it an unlawful employment practice for an employer to take adverse action against an employee or prospective employee on the basis of the employee's lawful use of any product outside the premises of the employer during the employee's nonworking hours, if the use does not adversely affect work performance or the safety of other employees. (NRS 612.222) Section 2 of this bill prohibits an employer from taking adverse action against an employee or prospective employee who expresses an opinion relating to marijuana.~~

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

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

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

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

1. Acquired immune deficiency syndrome;
2. Cancer;
3. Glaucoma;
4. Opioid addiction;

5. 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

~~5.6.~~ 6. 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 NRS 453A.710.

~~Section 1.1.~~ **Sec. 1.5.** NRS 453A.510 is hereby amended to read as follows:

453A.510 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 holds a registry identification card issued to him or her pursuant to paragraph (a) of subsection 1 of NRS 453A.220;*

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

(a) Is authorized by this chapter; or

(b) Relates to a medical marijuana establishment which is registered with the Division pursuant to this chapter; ~~for~~

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

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

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

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

1. *Is authorized by this chapter; or*

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

Sec. 3. ~~Chapter 613 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1. It is unlawful for any employer in this State to discharge, discipline, discriminate against in any manner or deny employment or promotion to, or threaten to take any such action against any employee or prospective employee who expresses an opinion relating to marijuana.~~

~~2. As used in this section, "expresses an opinion relating to marijuana" includes, without limitation, any verbal or written statement relating to marijuana or any association with or membership or participation in any group which advocates for or against the legal use of marijuana.~~ (Deleted by amendment.)

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

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

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

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

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

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

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

(b) Possession or delivery of paraphernalia;

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

(d) Aiding and abetting another in the possession or delivery of 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 industrial hemp or the possession or delivery of paraphernalia is an element.

↳ for such an administration or recommendation.

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

4. As used in this section:

(a) "Industrial hemp" has the meaning ascribed to it in NRS 557.040.

(b) "Marijuana" has the meaning ascribed to it in NRS 453.096.

(c) "Marijuana-infused product" has the meaning ascribed to it in NRS 453A.112.

(d) "Massage therapist" means a person who is licensed to engage in the practice of massage therapy pursuant to chapter 640C of NRS.

(e) "Paraphernalia" has the meaning ascribed to it in NRS 453A.125.

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

629.580 1. A person who provides wellness services in accordance with this section, but who is not licensed, certified or registered in this State as a provider of health care, is not in violation of any law based on the unlicensed practice of health care services or a health care profession unless the person:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 It is recommended that before beginning any wellness plan, you notify your
16 primary care physician or other licensed providers of health care of your intention
17 to use wellness services, the nature of the wellness services to be provided and any
18 wellness plan that may be utilized. It is also recommended that you ask your
19 primary care physician or other licensed providers of health care about any
20 potential drug interactions, side effects, risks or conflicts between any medications
21 or treatments prescribed by your primary care physician or other licensed providers
22 of health care and the wellness services you intend to receive.

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

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

31 (a) Are unable to read;

32 (b) Are blind or visually impaired;

33 (c) Have communication impairments; or

34 (d) Do not read or speak English or any other language in which the statement
35 is written.

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

39 5. A person who violates any provision of this section is guilty of a
40 misdemeanor. Before a criminal proceeding is commenced against a person for a
41 violation of a provision of this section, a notification, educational or mediative
42 approach must be utilized by the regulatory body enforcing the provisions of this
43 section to bring the person into compliance with such provisions.

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

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

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

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

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

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

- (a) Anthroposophy.
- (b) Aromatherapy.
- (c) Traditional cultural healing practices.
- (d) Detoxification practices and therapies.
- (e) Energetic healing.
- (f) Folk practices.
- (g) Gerson therapy and colostrum therapy.
- (h) Healing practices using food, dietary supplements, nutrients and the physical forces of heat, cold, water and light.
- (i) Herbology and herbalism.
- (j) Reflexology and Reiki.
- (k) Mind-body healing practices.
- (l) Nondiagnostic iridology.
- (m) Noninvasive instrumentalities.
- (n) Holistic kinesiology.

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