S.B. 336

SENATE BILL NO. 336–SENATOR SCHNEIDER

MARCH 21, 2011

Referred to Committee on Health and Human Services

SUMMARY—Revises certain provisions relating to prescription drugs. (BDR 40-234)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

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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 prescription drugs; revising certain provisions relating to prescription drugs; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the State Board of Pharmacy to add, delete or reschedule substances from the schedule of controlled substances, and classifies marijuana as a schedule I controlled substance. (NRS 453.146; NAC 453.510) **Section 1** of this bill requires the Board to designate marijuana as a controlled substance included in schedule III, regardless of the amount thereof.

Under existing law, a person with a qualifying medical condition may obtain a registry identification card indicating that the person is exempt from state prosecution for engaging in the medical use of marijuana. However, existing law provides no mechanism by which such a cardholder is to obtain marijuana for medical use. (Chapter 453A of NRS) **Section 2** of this bill establishes a pilot program pursuant to which the State Board of Pharmacy will certify compounding pharmacies, growing facilities and laboratories to provide marijuana for medical use to persons holding a valid registry identification card.

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

Section 1. NRS 453.146 is hereby amended to read as follows:

453.146 1. The Board shall administer the provisions of NRS 453.011 to 453.552, inclusive, and may add substances to or delete or reschedule all substances enumerated in schedules I, II, III, IV and V by regulation.

2. In making a determination regarding a substance, the Board shall consider the following:

(a) The actual or relative potential for abuse;

(b) The scientific evidence of its pharmacological effect, if known;

(c) The state of current scientific knowledge regarding the substance;

(d) The history and current pattern of abuse;

(e) The scope, duration and significance of abuse;

(f) The risk to the public health;

(g) The potential of the substance to produce psychic or physiological dependence liability; and

(h) Whether the substance is an immediate precursor of a controlled substance.

3. The Board may consider findings of the federal Food and Drug Administration or the Drug Enforcement Administration as prima facie evidence relating to one or more of the determinative factors.

4. After considering the factors enumerated in subsection 2, the Board shall make findings with respect thereto and adopt a regulation controlling the substance if it finds the substance has a potential for abuse.

5. The Board shall designate as a controlled substance a steroid or other product which is used to enhance athletic performance, muscle mass, strength or weight without medical necessity. The Board may not designate as a controlled substance an anabolic steroid which is:

(a) Expressly intended to be administered through an implant to cattle, poultry or other animals; and

(b) Approved by the Food and Drug Administration for such use.

6. The Board shall designate marijuana as a controlled substance included in schedule III, regardless of the amount thereof.

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

1. The Board shall establish a pilot program for the dispensing of marijuana, by a licensed pharmacy, for medical use by persons who hold a valid registry identification card issued pursuant to NRS 453A.220 or 453A.250.

2. The pilot program must include, without limitation:

(a) The selection by the Board of a pharmacy in this State which the Board determines is qualified to prepare, compound, package and label marijuana for medical use as authorized pursuant to this chapter.

(b) The authorization by the Board of a qualified facility to grow different types, strains and potencies of marijuana.

(c) Provisions pursuant to which the Board will direct a qualified laboratory to test and verify the types, strains and potencies of marijuana grown by a qualified facility.

(d) Provisions pursuant to which an attending physician must, before he or she is allowed to provide valid, written documentation stating that the medical use of marijuana may mitigate the symptoms or effects of a patient's chronic or debilitating medical condition:

(1) Obtain certification from the Board;

(2) Pay to the Board a reasonable fee established by the Board for such certification; and

(3) Receive periodic training provided by the compounding pharmacy under the supervision of the Board.

(e) Procedures pursuant to which the Board may impose a fine of not more than $500 against an attending physician who fails to comply with the requirements described in paragraph (d).

(f) Such other components or provisions as the Board may determine to be necessary or desirable.

3. The Board may take any actions reasonably necessary, including, without limitation, conducting inspections and imposing fees, to certify any compounding pharmacy, growing facility or laboratory as qualified to participate in the pilot program.

4. The pilot program must not conflict with any other provisions of this chapter.

5. Notwithstanding any other provision of law to the contrary, no person or entity is liable civilly or subject to state prosecution for any act or omission that:

(a) Occurs in the course of carrying out or furthering the provisions of this section; or

(b) Is authorized pursuant to the provisions of this section.

6. The Board shall adopt such regulations as are necessary to carry out the provisions of this section.

7. As used in this section:

(a) "Board" means the State Board of Pharmacy.

(b) "Compounding pharmacy" means a pharmacy selected by the Board as described in paragraph (a) of subsection 2.

(c) "Pharmacy" has the meaning ascribed to it in NRS 453.117.

Sec. 3. As soon as practicable after the effective date of this act, the State Board of Pharmacy shall adopt regulations to carry out the provisions of this act.

Sec. 4. 1. This act becomes effective upon passage and approval for the purpose of adopting regulations and on January 1, 2012, for all other purposes.

2. Section 2 of this act expires by limitation on December 31, 2021.

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