

Chapter 8.42

MEDICAL MARIJUANA

8.42.010: DEFINITIONS:

The words and phrases used in this chapter shall have the meanings as follows:

CHRONIC OR DEBILITATING MEDICAL CONDITION: Has the meaning ascribed to it in Nevada Revised Statutes 453A.050.

DESIGNATED PRIMARY CAREGIVER: Has the meaning ascribed to it in Nevada Revised Statutes 453A.080.

DIVISION: Has the meaning ascribed to it in Nevada Revised Statutes 453A.090.

MARIJUANA: Has the meaning ascribed to it in Nevada Revised Statutes 453.096.

MEDICAL USE OF MARIJUANA: Has the meaning ascribed to it in Nevada Revised Statutes 453A.120.

REGISTRY IDENTIFICATION CARD: Has the meaning ascribed to it in Nevada Revised Statutes 453A.140. (Ord. 470, 2014)

8.42.020: INTENT; GENERALLY:

The intent of this chapter is to provide for the continued ability for patients and designated primary caregivers to grow marijuana within Nye County, which is intended for the medical use of marijuana, without regard to the licensing and operation of medical marijuana establishments providing for the dispensing of medical marijuana within Nye County. The board of county commissioners specifically finds that the best interests of the residents of Nye County is served by allowing patients and designated primary caregivers to have the ability to grow marijuana after April 1, 2016, even if the patient or designated primary caregiver resides within twenty five (25) miles of an authorized medical marijuana dispensary. (Ord. 470, 2014)

8.42.030: EXEMPTION FROM STATE PROSECUTION FOR CERTAIN ACTS:

A holder of a valid registry identification card or medical marijuana establishment registration certificate is exempt from state prosecution for certain acts involving marijuana and paraphernalia.

A. Except as otherwise provided in this section and Nevada Revised Statutes 453A.300, a person who holds a valid registry identification card issued to the person pursuant to Nevada Revised Statutes 453A.220 or 453A.250 is exempt from state prosecution for:

1. Possession, delivery or production of marijuana;
2. Possession or delivery of paraphernalia;
3. Aiding and abetting another in the possession, delivery or production of marijuana;
4. Aiding and abetting another in the possession or delivery of paraphernalia;
5. Any combination of the acts described in subsections A1 to A4 of this section, inclusive; and
6. Any other criminal offense in which the possession, delivery or production of marijuana or the possession or delivery of paraphernalia is an element.

B. In addition to the provisions of subsection A of this section, 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.

C. The exemption from state prosecution set forth in subsection A of this section applies only to the extent that a person who holds a registry identification card issued to the person pursuant to paragraph (a) of subsection 1 of Nevada Revised Statutes 453A.220 and the designated primary caregiver, if any, of such a person:

1. 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
2. Do not, at any one time, collectively possess, deliver or produce more than:
 - a. Two and one-half ($2\frac{1}{2}$) ounces of usable marijuana in any one 14-day period;
 - b. Twelve (12) marijuana plants, irrespective of whether the marijuana plants are mature or immature; and
 - c. A maximum allowable quantity of edible marijuana products and marijuana infused products as established by regulation of the division.

The persons described in this subsection must ensure that the usable marijuana and marijuana plants described in this subsection are safeguarded in an enclosed, secure location.

D. If the persons described in subsection C of this section possess, deliver or produce marijuana in an amount which exceeds the amount described in subsection C2b of this section, those persons:

1. Are not exempt from state prosecution for possession, delivery or production of marijuana.

2. 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 Nevada Revised Statutes 453A.310.

- E. Notwithstanding any other provision of law and except as otherwise provided in this subsection, after a medical marijuana dispensary opens in the county of residence of a person who holds a registry identification card or his or her designated primary caregiver, if any, such persons are not authorized to cultivate, grow or produce marijuana. The provisions of this subsection do not apply if:
1. The person who holds the registry identification card or his or her designated primary caregiver, if any, was cultivating, growing or producing marijuana in accordance with chapter 453A of the Nevada Revised Statutes on or before July 1, 2014;
 2. All the medical marijuana dispensaries in the county of residence of the person who holds the registry identification card or his or her designated primary caregiver, if any, close or are unable to supply the quantity or strain of marijuana necessary for the medical use of the person to treat his or her specific medical condition;
 3. Because of illness or lack of transportation, the person who holds the registry identification card and his or her designated primary caregiver, if any, are unable reasonably to travel to a medical marijuana dispensary; or
 4. No medical marijuana dispensary was operating within twenty five (25) miles of the residence of the person who holds the registry identification card at the time the person first applied for his or her registry identification card.
- F. As used in this section, "marijuana" includes, without limitation, edible marijuana products and marijuana infused products as defined in chapter 453A of the Nevada Revised Statutes. (Ord. 470, 2014)