

BOARD OF REGENTS

BRIEFING PAPER

1. AGENDA ITEM TITLE: Handbook Revision, Use and Possession of Marijuana

MEETING DATE: ARSA, March 2, 2017

2. BACKGROUND & POLICY CONTEXT OF ISSUE:

Currently, Board policy includes provisions governing the use and possession of medical marijuana on NSHE property and by NSHE employees and students (*Title 2, Chapter 6, Section 6.2.1(ee)* – Prohibited Activity/Faculty Only; *Title 2, Chapter 10, Section 10.2.1(t)* – Prohibited Conduct/Students; and *Title 4, Chapter 1, Section 32* – Possession and Use of Medical Marijuana). In 2014, the Board revised its policy to address questions regarding the possession or use of medical marijuana at NSHE campuses and facilities in light of amendments to the medical marijuana laws passed by the 2013 Nevada Legislature. As noted in the briefing paper explaining the 2014 revisions, state and local governments were initiating the process of licensing medical marijuana dispensaries, cultivation facilities and testing laboratories pursuant to the 2013 statutory amendments.

In November 2016, Nevada voters approved [Ballot Question No. 2](#), which allows a person, 21 years old or older, to purchase, cultivate, possess, or consume a certain amount of marijuana or concentrated marijuana, as well as manufacture, possess, use, transport, purchase, distribute, or sell marijuana paraphernalia; imposes a 15 percent excise tax on wholesale sales of marijuana; requires the regulation and licensing of marijuana cultivators, testing facilities, distributors, suppliers, and retailers; and provides for certain criminal penalties.

The use, possession or cultivation of marijuana is prohibited by federal law at institutions that receive Title IV funding. In light of the approval of Ballot Question No. 2 in November 2016, revisions to Board policy are recommended to clarify the prohibited use and possession of marijuana in general, revising the current Board policy that is specific to medical marijuana.

3. SPECIFIC ACTIONS BEING RECOMMENDED OR REQUESTED:

Amend *Title 2, Chapter 6, Section 6.2.1 (ee)* (Prohibited Activity/Faculty); *Title 2, Chapter 10, Section 10.2.1 (t)* (Prohibited Conduct/Students); and *Title 4, Chapter 1, Section 32* (Possession and Use of Medical Marijuana) to remove the term “medical” in describing marijuana and clarify that the prohibited activity applies to marijuana in general, as well as marijuana for medical purposes. A technical change is included under *Title 4, Chapter 1, Section 32(3)* to change the reference from “housing contracts” to “housing agreements.”

Two Code revisions (*Title 2, Chapter 6, Section 6.2.1(ee)* and *Title 2, Chapter 10, Section 10.2.1(t)*), are presented for information and first read. The revisions to *Title 4, Chapter 1, Section 32* may be adopted separately.

4. IMPETUS (WHY NOW?):

In light of the approval of Nevada Ballot Question No. 2 in November 2016, Board policy should be clarified regarding the prohibited possession and use of marijuana on NSHE property.

5. BULLET POINTS TO SUPPORT REQUEST/RECOMMENDATION:

- The use or possession of marijuana by employees or students at NSHE campuses and facilities is illegal under federal law and is prohibited under Board of Regents’ policies.
- There is no exception for use or possession of marijuana (medical or general use) under federal law.
- Violation of the federal laws which prohibit use or possession of marijuana by NSHE employees or students could result in the loss of federal funds and financial aid, and possible criminal prosecution.

6. POTENTIAL ARGUMENTS AGAINST THE REQUEST/RECOMMENDATION:

None have been brought forward.

7. ALTERNATIVE(S) TO WHAT IS BEING REQUESTED/RECOMMENDED:

Do not adopt the proposed amendments.

8. COMPLIANCE WITH BOARD POLICY:

- Consistent With Current Board Policy: Title # _____ Chapter # _____ Section # _____
- X Amends Current Board Policy: *Title 4, Chapter 1, Section 32 of the Handbook, and Code Title 2, Chapter 6, Section 6.2.1 (ee) and Chapter 10, Section 10.2.1 (t)*
- Amends Current Procedures & Guidelines Manual: Chapter # _____ Section # _____
- Other: _____
- Fiscal Impact: Yes _____ No X _____
- Explain: _____

POLICY PROPOSAL
TITLE 2, CHAPTER 6, SECTION 6.2.1
Rules and Disciplinary Procedures for Faculty
Prohibited Activity – Faculty Only

Additions appear in *boldface italics*; deletions are [~~stricken~~ and bracketed]

6.2.1 Prohibited Activity - Faculty Only. The following conduct, being incompatible with the purposes of an academic community, is prohibited for all members of the faculty of the System, shall constitute cause for discipline and may lead to the procedures and disciplinary sanctions established in Section 6.3 of the Nevada System of Higher Education Code.

(a) Failure to perform the duties for which the faculty member is employed.

....

(ee) Use, possession, manufacturing or distribution (hereinafter “use”) of marijuana, *including for medical purposes*; heroin;~~;~~ narcotics;~~;~~ or other controlled substances;~~;~~ use or possession of any illegal and/or unauthorized drugs, prescription drugs, and drug paraphernalia or being under the influence of illegal drugs except as expressly permitted by law. Use, possession or cultivation of [~~medical~~] marijuana, *including for medical purposes*, on any NSHE or NSHE foundation owned or leased property, or at any NSHE sponsored or authorized activity, is expressly prohibited.

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POLICY PROPOSAL
TITLE 2, CHAPTER 10, SECTION 10.2.1
Rules of Conduct and Procedures for Students
Prohibited Conduct

Additions appear in *boldface italics*; deletions are [~~stricken~~ and bracketed]

10.2.1 Prohibited Conduct.

The following conduct is prohibited:

(a) Acts of dishonesty, including but not limited to the following:

.....

(t) Use, possession, manufacturing or distribution (hereinafter “use”) of marijuana, *including for medical purposes*; heroin; ~~;~~ narcotics; ~~;~~ or other controlled substances; ~~;~~ use or possession of any illegal and/or unauthorized drugs, prescription drugs, and drug paraphernalia or being under the influence of illegal drugs except as expressly permitted by law. Use, possession or cultivation of ~~medical~~ marijuana, *including for medical purposes*, on any NSHE or NSHE foundation owned or leased property, or at any NSHE sponsored or authorized activity, is expressly prohibited.

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POLICY PROPOSAL
TITLE 4, CHAPTER 1, SECTION 32
Possession and Use of Marijuana

Additions appear in *boldface italics*; deletions are [~~stricken~~ and bracketed]

Section 32. Possession and Use of [~~Medical~~] Marijuana

The Nevada System of Higher Education is sympathetic to the medical needs of our students, employees and visitors. A growing number of states, including Nevada, are enacting laws decriminalizing or legalizing the use, possession, delivery, manufacture, growth, distribution, production, and/or cultivation (hereinafter “use”) of [~~medical~~] marijuana, *including for medical purposes*. Federal law prohibits the use of [~~medical~~] marijuana, *including for medical purposes*, on college and university campuses that receive federal funding. The following provisions shall govern the possession and use of [~~medical~~] marijuana, *including for medical purposes*, on NSHE property.

1. The use, possession, or cultivation of marijuana, including for medical purposes, on any NSHE or NSHE foundation owned or leased property, or at any NSHE sponsored or authorized activity, is expressly prohibited.
2. Students, employees, faculty, guests, and/or visitors who violate this policy are subject to applicable disciplinary, legal and/or administrative action.
3. Each institution shall permit students who live on-campus or in housing that is owned or operated by the institution, to petition (“request”) for a release from the housing *agreement* [~~contract~~] if they assert legal compliance with Nevada state law to use medical marijuana. Such students, who prove their compliance with state law, may, in accordance with the applicable institution refund policy, be released from their housing *agreements* [~~contracts~~] and may receive a prorata refund of housing fees or rent paid.
4. Each institution shall publish on its website and in its course catalog notice of the prohibited use, possession or cultivation of [~~medical~~] marijuana, *including for medical purposes*, on NSHE or institution property in accordance with the provisions of this section and as prohibited student conduct defined in Title 2, Chapter 10.
5. The Board of Regents recognizes the Nevada Legislature’s stated commitment to a program evaluating the medical use and distribution of medical marijuana to be conducted by the University of Nevada School of Medicine. Any NSHE institution may engage in [~~medical~~] marijuana research that is conducted in accordance with state and federal laws and regulations, provided that the following are obtained: (a) the prior written consent of the President of the institution, after consultation with the institution’s general counsel; and (b) legal authorization from the proper federal authorities for approved research purposes.