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Licensee Update Regarding Federal Marijuana Rescheduling: What We Know, What We Don't, and What We're Doing About It

The Cannabis Compliance Board (the Board) provides this update to summarize the current understanding of the federal rescheduling order, identify major unresolved questions, and assist licensees in evaluating issues they may wish to discuss with their own legal and tax advisors.

On April 28, 2026, the United States Department of Justice published several federal actions concerning marijuana scheduling under the federal Controlled Substances Act ("CSA"). Those actions have generated substantial questions regarding the possible treatment of certain state-authorized medical cannabis activity under federal law, including potential implications for federal taxation, DEA registration, and federal regulatory compliance.

Currently, many critical legal and operational questions remain unresolved. The Board is actively seeking clarification from the Drug Enforcement Administration ("DEA"), the Nevada Attorney General's Office, and other relevant federal and state authorities. Because the federal framework is new, legally complex, and potentially subject to further administrative action or litigation, the Board cannot presently provide definitive guidance on several important issues affecting Nevada licensees.

What Happened on April 28

On April 28, 2026, the Department of Justice simultaneously published three federal actions in the Federal Register concerning marijuana scheduling under the CSA. Together, these actions represent a significant development in federal marijuana policy and administration.

- The Rescheduling Order
 - The first action was a final order signed by Acting Attorney General Todd Blanche that moved certain marijuana from Schedule I to Schedule III of the CSA. The order applies to marijuana contained in FDA-approved drug products and marijuana subject to a qualifying "state medical marijuana license." Recreational/Adult-use marijuana remain Schedule I under federal law.
- The Hearing Process for Broader Rescheduling
 - The second and third federal actions terminated the prior administrative hearing process initiated under the Biden administration and established a new formal hearing process to

consider broader rescheduling of marijuana, including adult-use marijuana, under the standard federal rulemaking framework. The outcome of that process remains uncertain, and no final determination regarding broader adult-use rescheduling has been made.

What the Order Could Mean for Qualifying Licensees

If a Nevada license qualifies as a “state medical marijuana license” under the federal order, qualifying medical cannabis activity may receive different treatment under federal law than activity involving adult-use marijuana.

- Federal Tax Relief
 - One potential consequence involves Section 280E of the Internal Revenue Code, which currently limits the ability of businesses trafficking in Schedule I or II controlled substances to deduct ordinary business expenses. Because Schedule III substances are not subject to Section 280E, qualifying medical cannabis activity potentially may become eligible for different federal tax treatment.
 - However, substantial uncertainty remains regarding the treatment of mixed-use operations, allocation of expenses between medical and adult-use activity, retroactive application of any tax changes, and implementation by the Internal Revenue Service and Department of the Treasury. Licensees should consult qualified tax professionals before modifying tax positions, filing amended returns, or changing accounting practices.
- Federal DEA Registration
 - The federal order also establishes a DEA registration pathway for certain entities handling qualifying Schedule III medical marijuana activity. The order further establishes a 60-day early-applicant registration period during which certain applicants who submit qualifying applications may receive interim operating protections while DEA review is pending.
 - The Board cannot determine whether any Nevada licensee qualifies for DEA registration under the federal framework. Licensees interested in pursuing DEA registration should independently verify all federal deadlines, eligibility requirements, documentation requirements, and registration procedures directly with the DEA or qualified counsel. The Board cannot guarantee that any application will be accepted, deemed complete, or determined to qualify under the federal framework, nor can the Board guarantee that any applicant will receive any federal protection or status.

The Big Open Question for Nevada: Does Your License Qualify?

The most significant unresolved question for Nevada’s cannabis industry concerns the application of the federal order to Nevada’s statutory dual-license framework.

Nevada law differs from many other state cannabis licensing structures. Under NRS 678D.490, each adult-use cannabis establishment in Nevada is deemed a dual licensee and is authorized by Nevada law to engage in activities relating to the medical use of cannabis to the same extent as if it separately held a medical cannabis establishment license of the same type.

As a practical matter, many Nevada cannabis establishments conduct both adult-use and medical cannabis activity under this statutory framework. Nevada law and Board regulations require those activities to be separately tracked and designated within the State’s inventory tracking and point-of-sale systems.

- Operators with Active Medical Cannabis Establishment Licenses
 - Licensees holding active medical cannabis establishment licenses issued pursuant to NRS 678B.215 — primarily establishments located in jurisdictions prohibiting adult-use cannabis establishments — appear to present the clearest case for qualification under the federal framework because those licenses expressly authorize medical cannabis activity.
- The Dual-License Question: NRS 678D.490
 - The more complex question concerns adult-use cannabis establishment licensees operating pursuant to NRS 678D.490. The federal order defines a qualifying “state medical marijuana license” as a license issued by a state entity authorizing medical cannabis activity. The Board believes Nevada’s statutory framework presents a substantial and legitimate legal basis for concluding that medical cannabis activity conducted pursuant to NRS 678D.490 may satisfy that definition. However, the Board cannot presently represent that the DEA has adopted, or will adopt, that interpretation. The Board also recognizes that the DEA could interpret the federal definition more narrowly to require a separately designated medical license instrument. Currently, the issue remains unresolved.

What the Board Is Doing

- We Have Contacted the DEA
 - The Board has sent written inquiries to our local DEA Diversion Control office. While we have not yet received a substantive response, we recognize that the DEA is managing an enormous volume of inquiries from cannabis regulators and operators across the country, and we are following up. The Board has also formally requested interpretive guidance from the DEA concerning the application of the federal order to Nevada’s statutory framework, including NRS 678D.490 and NRS 678B.215.
- We Are Actively Monitoring the Situation
 - The Board continues to monitor developments involving DEA implementation guidance, IRS and Treasury guidance, federal litigation, and developments in other states with similar licensing structures. The Board will continue providing updates as reliable information becomes available.
 - Several lawsuits challenging aspects of the federal rescheduling actions have already been filed, and additional litigation or administrative action may occur. Federal agencies may also issue supplemental guidance, modify implementation procedures, revise interpretive positions, extend or modify registration procedures, or alter implementation timelines. Accordingly, licensees should understand that the federal regulatory environment remains fluid and subject to potentially significant change.

What You Should Do Right Now

Given the uncertainty, here is our practical guidance for Nevada licensee:

- Talk to a Lawyer and a Tax Professional

- The Board encourages licensees to consult qualified legal and tax professionals, maintain accurate separation of medical and adult-use activity in METRC and related systems, preserve complete records relating to medical transactions, monitor DEA guidance and Board communications, and carefully evaluate whether seeking DEA registration is appropriate for their specific operational and legal circumstances.
- If You Want to Pursue DEA Registration, Be Aware of the Deadline
 - If you believe your license may qualify and you want to pursue federal DEA registration, the early-applicant deadline matters. Operators who file within the 60-day window may continue operating under their state license while DEA reviews the application. After that window closes, registration remains available, but the protected operating continuity does not.
 - Pursuing DEA registration does not mean you are committing to any particular legal position on whether your license qualifies. You can file an application and let DEA make that determination.
- Keep Your Medical and Adult-Use Operations Clearly Separated in METRC
 - Regardless of whether you ultimately seek DEA registration, Nevada law already requires you to designate every transaction in METRC as medical or adult-use at the point of sale and to verify patient registry status for medical transactions. If you are pursuing Schedule III treatment for your medical operations, clean and complete METRC records that clearly document the separation of medical and adult-use activity will be important for both DEA registration and for tax purposes.
- Do Not Make Aggressive Tax Moves Without Guidance
 - The 280E relief is real and potentially significant. But the IRS has not yet told us how to allocate shared expenses between medical and adult-use operations. Please wait for that guidance — or work closely with qualified tax counsel — before amending prior returns or changing your current-year tax treatment.

What Does Not Change

Licensees should continue operating in full compliance with Nevada law and Board regulations unless and until formal legal requirements change.

Currently, adult-use marijuana remains Schedule I under federal law, Nevada cannabis licensing requirements remain fully in effect, interstate cannabis commerce remains prohibited absent further federal action, and the Board's enforcement and regulatory authority under Nevada law remains unchanged. The federal order does not itself legalize adult-use marijuana federally, nor does it resolve ongoing banking access issues facing the cannabis industry.

This update is informational only and does not constitute legal advice, tax advice, or a formal determination of any licensee's status under federal law. The Board cannot provide individualized legal guidance regarding DEA registration eligibility, federal tax treatment, or federal criminal exposure. Licensees remain responsible for independently evaluating their obligations and risks under federal law in consultation with qualified legal and tax professionals.