

Medical Cannabis Doctor Protection Amendment Fails in Nebraska

A Last-Minute Legislative Effort to Secure Legal Protections for Nebraska Physicians Recommending Medical Cannabis Fails to Advance Amidst Broader Medical Cannabis Regulatory Setbacks

On Wednesday, Nebraska lawmakers witnessed a critical but ultimately unsuccessful attempt to grant legal protections to healthcare practitioners who recommend medical cannabis to patients within the state. This effort came just a day after the defeat of a wider medical cannabis regulatory bill that had been under intense debate. The failed amendment, which sought to shield physicians from liability related to cannabis recommendations, highlights the ongoing tensions surrounding Nebraska's evolving medical marijuana landscape.

State Senator John Cavanaugh's Amendment Aimed to Provide a Small But Meaningful Step for Families Waiting on Medical Cannabis Access Following Recent Ballot Approval

State Senator John Cavanaugh (D-Omaha) introduced the amendment as part of Legislative Bill 376, a Health and Human Services Committee bill focused on reducing reporting requirements and altering administrative aspects of the Nebraska Department of Health and Human Services. Cavanaugh framed his proposal as a "solution" that, while modest, could offer hope to families advocating for access to medical cannabis—especially after the recent failure of LB 677, a broader medical cannabis regulatory bill sponsored by Senator Ben Hansen (R-Blair). LB 677 had been narrowly defeated in a 23-22 vote after a protracted filibuster, falling 10 votes short of passage.

Under voter-approved measures passed last November with over 70 percent support, eligible patients are entitled to possess up to 5 ounces of medical cannabis for any qualifying condition when recommended by a healthcare provider. However, until state dispensaries are licensed—required by the law to open by October 1—patients currently lack legal means to obtain cannabis within Nebraska.

Lack of State Guidance and Hesitation Among Physicians Creates a Barrier to Access, Compounded by Legal Threats from Nebraska's Attorney General

One of the most pressing issues driving Cavanaugh's amendment is the continued absence of clear guidance from the Department of Health and Human Services (DHHS), which has yet to issue protocols for physicians on issuing medical cannabis recommendations. Many advocates have reported that doctors in Nebraska remain reluctant to recommend cannabis to patients due to fears of legal repercussions and a lack of regulatory clarity.

Adding to this uncertainty, Nebraska Attorney General Mike Hilgers (R) has publicly acknowledged the potential for investigating the medical licenses of physicians who recommend cannabis, further chilling provider participation. Cavanaugh’s amendment was designed to address this chilling effect by preventing healthcare practitioners from facing arrest, prosecution, or disciplinary actions solely for offering written recommendations or professional opinions that a patient may benefit from medical cannabis. The Nebraska Medical Association had expressed support for these protections.

Opposition from Some Republican Senators Focuses on Procedural Objections and Concerns About Impact on Broader Health and Human Services Committee Bill

Despite the potential benefits, opposition was swift and vociferous. State Senator Bob Andersen (R-Sarpy County), a firm opponent of LB 677, contended that Cavanaugh’s amendment was not “germane” to LB 376—meaning it was unrelated to the bill’s main subject matter. Nebraska’s Speaker of the Legislature John Arch (R-La Vista), who presided over the session, concurred with this procedural objection.

When Cavanaugh moved to overrule the chair’s decision on germaneness, the motion failed decisively by a vote of 15-30, preventing the amendment from being put to an up-or-down vote. The motion required at least 24 votes to succeed, but the absence of three senators who had left the Capitol further undermined its chances.

Senator Hansen, a former HHS Committee chair and sponsor of the stalled medical cannabis bill, dismissed opposition fears of unintended consequences from the amendment, stating there was no “boogeyman” lurking within the language.

Health and Human Services Committee Chair Labels the Amendment a ‘Cheap Parlor Trick’ Aimed at Sabotaging the Larger Regulatory Bill

Current HHS Committee Chair Senator Brian Hardin (R-Gering) criticized the amendment sharply, calling it a “cheap parlor trick” that risked the veto of LB 376. Governor Jim Pillen (R) had previously indicated that he did not support LB 677, the larger regulatory bill that had failed. Hardin’s comments framed the amendment as a strategic move to derail committee legislation through last-minute additions.

Other Republican senators, including Bob Hallstrom (R-Syracuse) and Mike Moser (R-Columbus), also questioned whether the amendment was in the “natural and logical sequence” of LB 376’s provisions. Cavanaugh argued that the bill already contained sections discussing civil and criminal protections for medical providers and hospital staff, suggesting the amendment fit within the broader scope.

Senator Moser, critical of the late timing of the amendment’s introduction—around 8 p.m. during the legislative session—called the process “crazy,” noting that last-minute amendments are common but often controversial.

Debate Over Germaneness Reflects Broader Legislative Power Dynamics and Raises Questions About Fairness in Nebraska’s Lawmaking Process

The concept of “germaneness” remains a highly subjective and politicized issue in the Nebraska Legislature. State Senator Megan Hunt (I-Omaha) supported Cavanaugh’s amendment, arguing that germaneness often depends on the majority’s will rather than an objective standard. She pointed to precedent, such as a 2023 merger of bills restricting abortion and healthcare for transgender youth, which the Nebraska Supreme Court later upheld as germane.

State Senator Wendy DeBoer (D-Omaha) acknowledged the concerns about the amendment's last-minute filing but suggested that, by past legislative practices, the amendment would be considered germane. She questioned why Cavanaugh had not communicated his plans to committee leadership earlier, to which Cavanaugh replied that the failure of LB 677 late Tuesday prompted the new approach on Wednesday.

Despite some senators voting for LB 677 previously, seven voted to uphold the ruling blocking the amendment, reflecting the complex political divisions within the chamber.

Judiciary Committee Chair and Other Lawmakers Express Support for Protecting Physicians but Call for More Legislative Attention in the Near Future

Among the few senators who voted to overrule the chair was State Senator Carolyn Bosn (R-Lincoln), chair of the Judiciary Committee and a former prosecutor. Though she did not vote on LB 677, Bosn stated that she would have supported Cavanaugh's amendment if it had reached a vote. She emphasized that legislative responsibility includes addressing physician hesitancy to participate in medical cannabis recommendations, especially since regulatory commissions cannot grant legal immunity.

Bosn, along with Cavanaugh and Hansen, agreed that the Legislature must soon grapple with protecting physicians as part of the evolving medical cannabis regulatory framework.

Final Legislative Pleas Invoke Moral Responsibility and Civic Vigilance as the Medical Cannabis Debate Continues Into Future Sessions

In a passionate final appeal, Senator Cavanaugh quoted a well-known phrase cautioning that the "hottest places in hell are reserved for those, when in times of moral crisis, preserve their neutrality." He urged his colleagues not to avoid responsibility and to "do the right thing for these families" seeking access to medical cannabis.

Both Cavanaugh and Hansen remain committed to continuing their advocacy during the remaining days of the 2025 legislative session, through the regulatory implementation process, and in the 2026 session. Hansen reminded observers of an inscription on the north side of the Nebraska State Capitol: "The salvation of the state is watchfulness in the citizen," emphasizing the ongoing importance of public engagement in shaping the state's medical cannabis future.

Email: info@cannabisriskmanager.com | Phone: +415-226-4060

© Copyright 2025 Cannabis Risk Manager. All Rights Reserved