How much medical cannabis can qualifying patients and designated providers possess?

Qualifying patients and designated providers are permitted to possess no more than 15 cannabis plants, no more than 24 ounces of useable cannabis, no more cannabis product than what could reasonably be produced with no more than 24 ounces of useable cannabis, or a combination of useable cannabis and cannabis product that does not exceed a combined total representing possession and processing of no more than 24 ounces of useable cannabis. (RCW 69.51A.040(1)). If a person is both a qualifying patient and a designated provider, the person may possess no more than twice these amounts.

Usable cannabis is defined as the dried leaves and flowers of the *Cannabis* plant Moraceae and does not include stems, stalks, seeds and roots. (WAC 246-75-010 (2)(d)). A plant is defined as any cannabis plant in any stage of growth. (WAC 246-75-010 (2)(b)). Patients have the right to present evidence in court that their necessary medical use exceeds the amount specified in RCW 69.51A.040(1), so long as they are otherwise in compliance with the law (RCW 69.51A.045).

How does the medical cannabis law protect health care professionals?

Washington state health care professionals permitted to authorize the medical use of cannabis are protected, so long as they follow the provisions in RCW 69.51A . Please see the ACLU-WA's brochure that specifically deals with health care professionals and Washington's Medical Use of Cannabis Act, available for download at: **http://aclu-wa.org/medical-marijuana-guide**

Does the medical cannabis law offer any protection to other people in the qualifying patient's life?

No one can be punished **solely** for being in the presence or vicinity of medical cannabis or its use. (RCW 69.51A.050(2)). As long as they are not in actual possession of the patient's medical cannabis or actively participating in the growing, obtaining, delivering, or administering of the patient's medical cannabis, family members, friends, roommates, medical services providers, social workers, and anyone else may be around medical cannabis users and their designated providers without fear of prosecution. "Constructive possession," like being in the same room, does not count.

The medical cannabis law only allows qualifying patients and their designated providers to possess medical cannabis – and only qualifying patients to use the cannabis. The law does not allow anyone else to possess, acquire, deliver, grow, harvest, or use cannabis for any purpose.

The law states that a qualifying patient or designated provider complying with the law may not have his or her **parental rights or residential time with a child** restricted solely due to his or her medical use of cannabis.

What are the limits of the medical cannabis law?

The Medical Use of Cannabis Act protects **only** the individuals described in the statute (see above). Except for the assistance given by a designated provider to a qualifying patient or for qualifying patients participating in a collective garden (RCW 69.51A.085), growing cannabis or giving cannabis to anyone is still a crime under Washington state law. Even qualifying patients can be prosecuted for giving their medical cannabis to someone for whom they are not also the designated provider.

The act describes two new state offenses (RCW 69.51A.060):

- It is a class 3 civil infraction to use or display medical cannabis in a manner or place which is open to the view of the general public.
- It is a class C felony to fraudulently produce any record purporting to be, or tamper with the content of any record for the purpose of having it accepted as, valid documentation, or to backdate such documentation to a time earlier than its actual date of execution

And the act sets certain other limitations:

- No health insurer can be required to pay for the medical use of cannabis.
- Health care professionals are not required to authorize the medical use of cannabis for a patient.
- Places of employment, school buses, school grounds, youth centers, correctional facilities, and hotels or motels are not required to accommodate the **on-site** use of medical cannabis.
- Patients are not allowed to **smoke** medical cannabis in any public place.
- The law does not authorize the use of medical cannabis by any person who is subject to the Washington code of military justice in RCW 38.38.
- Employers may establish drug-free work policies and are not required to accommodate the medical use of cannabis if they have such a policy.
- The law does not protect medical use of cannabis in a way that endangers the health or well-being of any person through the use of a motorized vehicle on a street, road, or highway. In other words, qualifying patients cannot drive under the influence of medical cannabis.

Prepared by the ACLU-WA Foundation's Drug Policy Project (November 2011)

Washington's
Medical Use of Cannabis Act

A Guide for Patients, Providers, Law Enforcement, and the Public

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Washington voters passed the Medical Use of Marijuana Act in 1998 as a ballot initiative (I-692), and the Washington Legislature amended the Act in 2007 with SB 6032, in 2010 with SB 5798, and in 2011 with SB 5073. The latter retitled it the Medical Use of Cannabis Act.

Patients with terminal or debilitating medical conditions, and their friends, families, providers and health care professionals, should take time to understand this law. It is codified in Chapter 69.51A of the Revised Code of Washington and at Chapter 246-75 of the Washington Administrative Code. This pamphlet provides a general explanation of the Medical Use of Cannabis Act. For legal advice on how the act applies to you personally, you should speak with an attorney who is familiar with this law.

What does the Medical Use of Cannabis Act do?

Washington's medical cannabis law provides qualifying patients and their designated providers **a defense in state and local courts to criminal charges relating to growing, possessing, or administering medical cannabis**. The law also clarifies that health care professionals may discuss medical cannabis as a treatment option with their patients and authorize its use without penalty.

Washington's law does not, however, change federal cannabis laws, and even medical use of cannabis remains prohibited under federal law. Therefore, anyone who manufactures, distributes, dispenses, or possesses cannabis for **any** purpose still may be prosecuted under federal law. (See Title 21, Chapter 13, sections 841 and 844 of the United States Code.)

Washington's Medical Use of Cannabis Act does not legalize cannabis for recreational or any other use that is not specifically covered by the law. The law applies **only** to the medical conditions listed in the statute (see below) and others that may be approved by the Washington State Medical Quality Assurance Commission and Board of Osteopathic Medicine and Surgery. Recreational use of cannabis remains illegal.

Who is a protected "qualifying patient"?

Washington's law protects patients suffering from specified **terminal or debilitating medical conditions** who have been diagnosed by, and received a qualifying statement from, a health care professional licensed in Washington as an M.D., physician assistant, osteopathic physician, osteopathic physicians' assistant, naturopath, or advanced registered nurse practitioner.

If the health care professional's qualifying statement is issued on or after June 10, 2010, it must be signed, dated, and written on "tamper-resistant paper" that includes one or more industry-recognized features designed to prevent copying, counterfeiting, or erasure or modification of information. (RCW 69.51A.010(5))

The patient must be a resident of Washington at the time he or she is diagnosed with a covered condition and be advised by the diagnosing health care professional (1) about the risks and benefits of medical cannabis and (2) that he or she may benefit from the medical use of cannabis. Standard forms that can be used by health care professionals, if printed on tamper-resistant paper, can be downloaded at: **http://aclu-wa.org/medical-marijuana-guide**

The medical cannabis law does not cover all terminal or debilitating medical conditions – only those conditions and categories of conditions currently listed in the statute or subsequently approved by the Medical Quality Assurance Commission (MQAC) and Board of Osteopathic Medicine and Surgery. Currently, the following conditions are listed in and covered by the Medical Use of Cannabis Act:

(a) Cancer, human immunodeficiency virus (HIV), multiple sclerosis, epilepsy or other seizure disorder, or spasticity disorders;

(b) Intractable pain, meaning pain unrelieved by standard medical treatments and medications;

(c) Glaucoma, either acute or chronic, meaning increased intraocular pressure unrelieved by standard treatments and medications;

(d) Crohn's disease with debilitating symptoms unrelieved by standard treatments or medications;

(e) Hepatitis C with debilitating nausea or intractable pain unrelieved by standard treatments or medications; and

(f) Diseases, including anorexia, which result in nausea, vomiting, wasting, appetite loss, cramping, seizures, muscle spasms, or spasticity, when these symptoms are unrelieved by standard treatments or medications.

Anyone may petition the Medical Quality Assurance Commission and the Board of Osteopathic Medicine and Surgery to add other terminal or debilitating conditions to the list.

Qualifying patients should carry their "valid documentation" with them whenever they possess or use medical cannabis. Valid documentation consists of two items: (1) their health care professional's authorization, which must be **dated** if signed on or after June 10, 2010 **and** (2) proof of their identity, such as a Washington state driver's license or identicard. RCW 69.51A.043 requires a qualifying patient to present **both** of these items to any law enforcement officer who questions the patient regarding his or her use of medical cannabis. However, even if they don't do this, RCW 69.51A.047 allows qualifying patients to raise the medical cannabis defense at trial if they can prove they were validly authorized at the time of questioning.

Who is a protected "designated provider"?

Some qualifying patients need help growing, obtaining, storing, or using medical cannabis. So the law allows them to appoint a "designated provider" who will also be protected under the Medical Use of Cannabis Act. A designated provider is defined as a person who:

(a) Is 18 years of age or older;

(b) Has been named in writing by a patient to serve as a designated provider under the law;

(c) Is prohibited from consuming cannabis obtained for the personal, medical use of the patient for whom the individual is acting as a designated provider (this does not prohibit a patient from being a designated provider for another patient and consuming his or her own personal supply of medical cannabis); and

(d) Is the designated provider to only one patient at any one time.

The qualifying patient must designate the provider in writing before the provider assumes responsibility for the patient's medical cannabis, and **the designated provider must carry (1) the patient's written designation, (2) if issued on or after June 10, 2010, a duplicate original of the patient's health care professional authorization printed on tamper-resistant paper, and (3) proof of identity whenever he or she is growing, obtaining, or in possession of medical cannabis**. All of these items must be presented to law enforcement upon request.

Additionally, as of July 22, 2011, the law provides that a qualifying patient may revoke his or her designation of a specific provider at any time. A revocation of designation must be in writing, signed and dated. A person who has served as a designated provider to a qualifying patient no longer has the protection of the law 72 hours after receipt of that patient's revocation of his or her designation. A person may stop serving as a designated provider to a given qualifying patient at any time. However, that person **may not begin serving as a designated provider to another different qualifying patient until 15 days** have elapsed from the date the last qualifying patient designated him or her to serve as a provider.