

# The Washington State Medical Use of Marijuana Act

## Chapter 69.51A of the Revised Code of Washington

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### 69.51A.005

#### Purpose and intent.

The people of Washington state find that some patients with terminal or debilitating illnesses, under their health care professional's care, may benefit from the medical use of marijuana. Some of the illnesses for which marijuana appears to be beneficial include chemotherapy-related nausea and vomiting in cancer patients; AIDS wasting syndrome; severe muscle spasms associated with multiple sclerosis and other spasticity disorders; epilepsy; acute or chronic glaucoma; and some forms of intractable pain.

The people find that humanitarian compassion necessitates that the decision to authorize the medical use of marijuana by patients with terminal or debilitating illnesses is a personal, individual decision, based upon their health care professional's professional medical judgment and discretion.

Therefore, the people of the state of Washington intend that:

Qualifying patients with terminal or debilitating illnesses who, in the judgment of their health care professionals, may benefit from the medical use of marijuana, shall not be found guilty of a crime under state law for their possession and limited use of marijuana;

Persons who act as designated providers to such patients shall also not be found guilty of a crime under

state law for assisting with the medical use of marijuana; and

Health care professionals also be excepted from liability and prosecution for the authorization of marijuana use to qualifying patients for whom, in the health care professional's professional judgment, medical marijuana may prove beneficial.

[2010 c 284 § 1; 2007 c 371 § 2; 1999 c 2 § 2 (Initiative Measure No. 692, approved November 3, 1998).]

#### Notes:

**Intent -- 2007 c 371:** "The legislature intends to clarify the law on medical marijuana so that the lawful use of this substance is not impaired and medical practitioners are able to exercise their best professional judgment in the delivery of medical treatment, qualifying patients may fully participate in the medical use of marijuana, and designated providers may assist patients in the manner provided by this act without fear of state criminal prosecution. This act is also intended to provide clarification to law enforcement and to all participants in the judicial system." [2007 c 371 § 1.]

### 69.51A.010

#### Definitions.

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

- (1) "Designated provider" means a person who:
  - (a) Is eighteen years of age or older;
  - (b) Has been designated in writing by a patient to serve as a designated provider under this chapter;
  - (c) Is prohibited from consuming marijuana obtained for the personal, medical use of the patient for whom the individual is acting as designated provider; and
  - (d) Is the designated provider to only one patient at any one time.
- (2) "Health care professional," for purposes of this chapter only, means a physician licensed under chapter 18.71 RCW, a physician assistant licensed under chapter 18.71A RCW, an osteopathic physician licensed under chapter 18.57 RCW, an osteopathic physicians' assistant licensed under chapter 18.57A RCW, a naturopath licensed under chapter 18.36A RCW, or an advanced registered nurse practitioner licensed under chapter 18.79 RCW.

- (3) “Medical use of marijuana” means the production, possession, or administration of marijuana, as defined in RCW 69.50.101(q), for the exclusive benefit of a qualifying patient in the treatment of his or her terminal or debilitating illness.
- (4) “Qualifying patient” means a person who:
- Is a patient of a health care professional;
  - Has been diagnosed by that health care professional as having a terminal or debilitating medical condition;
  - Is a resident of the state of Washington at the time of such diagnosis;
  - Has been advised by that health care professional about the risks and benefits of the medical use of marijuana; and
  - Has been advised by that health care professional that they may benefit from the medical use of marijuana.
- (5) “Tamper-resistant paper” means paper that meets one or more of the following industry-recognized features:
- One or more features designed to prevent copying of the paper;
  - One or more features designed to prevent the erasure or modification of information on the paper; or
  - One or more features designed to prevent the use of counterfeit valid documentation.
- (6) “Terminal or debilitating medical condition” means:
- Cancer, human immunodeficiency virus (HIV), multiple sclerosis, epilepsy or other seizure disorder, or spasticity disorders; or
  - Intractable pain, limited for the purpose of this chapter to mean pain unrelieved by standard medical treatments and medications; or
  - Glaucoma, either acute or chronic, limited for the purpose of this chapter to mean increased intraocular pressure unrelieved by standard treatments and medications; or
  - Crohn’s disease with debilitating symptoms unrelieved by standard treatments or medications; or
  - Hepatitis C with debilitating nausea or intractable pain unrelieved by standard treatments or medications; or
  - 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; or
  - Any other medical condition duly approved by the Washington state medical quality assurance

commission in consultation with the board of osteopathic medicine and surgery as directed in this chapter.

- (7) “Valid documentation” means:
- A statement signed and dated by a qualifying patient’s health care professional written on tamper-resistant paper, which states that, in the health care professional’s professional opinion, the patient may benefit from the medical use of marijuana; and
  - Proof of identity such as a Washington state driver’s license or identicard, as defined in RCW 46.20.035.

[2010 c 284 § 2; 2007 c 371 § 3; 1999 c 2 § 6 (*Initiative Measure No. 692, approved November 3, 1998*).]

**Notes:**

**Intent -- 2007 c 371:** See note following RCW 69.51A.005.

**69.51A.020**

**Construction of chapter.**

Nothing in this chapter shall be construed to supersede Washington state law prohibiting the acquisition, possession, manufacture, sale, or use of marijuana for nonmedical purposes.

[1999 c 2 § 3 (*Initiative Measure No. 692, approved November 3, 1998*).]

**69.51A.030**

**Health care professionals excepted from state’s criminal laws.**

A health care professional shall be excepted from the state’s criminal laws and shall not be penalized in any manner, or denied any right or privilege, for:

- Advising a qualifying patient about the risks and benefits of medical use of marijuana or that the qualifying patient may benefit from the medical use of marijuana where such use is within a professional standard of care or in the individual health care professional’s medical judgment; or
- Providing a qualifying patient with valid documentation, based upon the health care professional’s assessment of the qualifying patient’s medical history and current medical condition, that the medical use of marijuana may benefit a particular qualifying patient.

[2010 c 284 § 3; 2007 c 371 § 4; 1999 c 2 § 4 (*Initiative Measure No. 692, approved November 3, 1998*).]

**Notes:**

**Intent -- 2007 c 371:** See note following RCW 69.51A.005.

#### **69.51A.040**

##### **Failure to seize marijuana, qualifying patients' affirmative defense.**

(1) If a law enforcement officer determines that marijuana is being possessed lawfully under the medical marijuana law, the officer may document the amount of marijuana, take a representative sample that is large enough to test, but not seize the marijuana. A law enforcement officer or agency shall not be held civilly liable for failure to seize marijuana in this circumstance.

(2) If charged with a violation of state law relating to marijuana, any qualifying patient who is engaged in the medical use of marijuana, or any designated provider who assists a qualifying patient in the medical use of marijuana, will be deemed to have established an affirmative defense to such charges by proof of his or her compliance with the requirements provided in this chapter. Any person meeting the requirements appropriate to his or her status under this chapter shall be considered to have engaged in activities permitted by this chapter and shall not be penalized in any manner, or denied any right or privilege, for such actions.

(3) A qualifying patient, if eighteen years of age or older, or a designated provider shall:

- (a) Meet all criteria for status as a qualifying patient or designated provider;
- (b) Possess no more marijuana than is necessary for the patient's personal, medical use, not exceeding the amount necessary for a sixty-day supply; and
- (c) Present his or her valid documentation to any law enforcement official who questions the patient or provider regarding his or her medical use of marijuana.

(4) A qualifying patient, if under eighteen years of age at the time he or she is alleged to have committed the offense, shall demonstrate compliance with subsection (3)(a) and (c) of this section. However, any possession under subsection (3)(b) of this section, as well as any production, acquisition, and decision as to dosage and frequency of use, shall be the responsibility of the parent or legal guardian of the qualifying patient. [2007 c 371 § 5; 1999 c 2 § 5 (Initiative Measure No. 692, approved November 3, 1998).]

##### **Notes:**

**Intent -- 2007 c 371:** See note following RCW 69.51A.005.

#### **69.51A.050**

##### **Medical marijuana, lawful possession — State not liable.**

(1) The lawful possession or manufacture of medical marijuana as authorized by this chapter shall not result in the forfeiture or seizure of any property.

(2) No person shall be prosecuted for constructive possession, conspiracy, or any other criminal offense solely for being in the presence or vicinity of medical marijuana or its use as authorized by this chapter.

(3) The state shall not be held liable for any deleterious outcomes from the medical use of marijuana by any qualifying patient.

[1999 c 2 § 7 (Initiative Measure No. 692, approved November 3, 1998).]

#### **69.51A.060**

##### **Crimes — Limitations of chapter.**

(1) It shall be a misdemeanor to use or display medical marijuana in a manner or place which is open to the view of the general public.

(2) Nothing in this chapter requires any health insurance provider to be liable for any claim for reimbursement for the medical use of marijuana.

(3) Nothing in this chapter requires any health care professional to authorize the use of medical marijuana for a patient.

(4) Nothing in this chapter requires any accommodation of any on-site medical use of marijuana in any place of employment, in any school bus or on any school grounds, in any youth center, in any correctional facility, or smoking medical marijuana in any public place as that term is defined in RCW 70.160.020.

(5) 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 under RCW 69.51A.010(7)(a).

(6) No person shall be entitled to claim the affirmative defense provided in RCW 69.51A.040 for engaging in the medical use of marijuana 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.

[2010 c 284 § 4; 2007 c 371 § 6; 1999 c 2 § 8 (Initiative Measure No. 692, approved November 3, 1998).]

##### **Notes:**

**Intent -- 2007 c 371:** See note following RCW 69.51A.005.

**69.51A.070**

**Addition of medical conditions.**

The Washington state medical quality assurance commission in consultation with the board of osteopathic medicine and surgery, or other appropriate agency as designated by the governor, shall accept for consideration petitions submitted to add terminal or debilitating conditions to those included in this chapter. In considering such petitions, the Washington state medical quality assurance commission in consultation with the board of osteopathic medicine and surgery shall include public notice of, and an opportunity to comment in a public hearing upon, such petitions. The Washington state medical quality assurance commission in consultation with the board of osteopathic medicine and surgery shall, after hearing, approve or deny such petitions within one hundred eighty days of submission. The approval or denial of such a petition shall be considered a final agency action, subject to judicial review.

[2007 c 371 § 7; 1999 c 2 § 9 (Initiative Measure No. 692, approved November 3, 1998).]

**Notes:**

**Intent -- 2007 c 371:** See note following RCW 69.51A.005.

**69.51A.080**

**Adoption of rules by the department of health — Sixty-day supply for qualifying patients.**

(1) By July 1, 2008, the department of health shall adopt rules defining the quantity of marijuana that could reasonably be presumed to be a sixty-day supply for qualifying patients; this presumption may be overcome with evidence of a qualifying patient’s necessary medical use.

(2) As used in this chapter, “sixty-day supply” means that amount of marijuana that qualifying patients would reasonably be expected to need over a period of sixty days for their personal medical use. During the rule-making process, the department shall make a good faith effort to include all stakeholders identified in the rule-making analysis as being impacted by the rule.

(3) The department of health shall gather information from medical and scientific literature, consulting with experts and the public, and reviewing the best practices of other states regarding access to an adequate, safe, consistent, and secure source, including alternative distribution systems, of medical marijuana for qualifying patients. The department shall report its findings to the legislature by July 1, 2008.

[2007 c 371 § 8.]

**Notes:**

**Intent -- 2007 c 371:** See note following RCW 69.51A.005.

**69.51A.090**

**Applicability of valid documentation definition.**

The provisions of RCW 69.51A.010, relating to the definition of “valid documentation,” apply prospectively only, not retroactively, and do not affect valid documentation obtained prior to June 10, 2010.

[2010 c 284 § 5.]

**69.51A.900**

**Short title — 1999 c 2.**

This chapter may be known and cited as the Washington state medical use of marijuana act.

[1999 c 2 § 1 (Initiative Measure No. 692, approved November 3, 1998).]

**69.51A.901**

**Severability — 1999 c 2.**

If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

[1999 c 2 § 10 (Initiative Measure No. 692, approved November 3, 1998).]

**69.51A.902**

**Captions not law — 1999 c 2.**

Captions used in this chapter are not any part of the law.

[1999 c 2 § 11 (Initiative Measure No. 692, approved November 3, 1998).]

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