

INITIATIVE 692

to the People

Chapter 2, Laws of 1999

MEDICAL USE OF MARIJUANA

EFFECTIVE DATE: 12/3/98

Approved by the
People of the State of Washington
in the General Election on
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March 16, 1998

**Secretary of State
State of Washington**

1 AN ACT Relating to the medical use of marijuana; adding a new
2 chapter to Title 69 RCW; and prescribing penalties.

3 BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

4 **NEW SECTION: Sec. 1. TITLE.**

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

7 **NEW SECTION. Sec. 2. PURPOSE AND INTENT.**

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

16 The People find that humanitarian compassion necessitates that the
17 decision to authorize the medical use of marijuana by patients with
18 terminal or debilitating illnesses is a personal, individual decision,

1 based upon their physician's professional medical judgment and
2 discretion.

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

4 Qualifying patients with terminal or debilitating illnesses who, in the
5 judgment of their physicians, would benefit from the medical use of
6 marijuana, shall not be found guilty of a crime under state law for
7 their possession and limited use of marijuana;

8 Persons who act as primary caregivers to such patients shall also not
9 be found guilty of a crime under state law for assisting with the
10 medical use of marijuana; and

11 Physicians also be excepted from liability and prosecution for the
12 authorization of marijuana use to qualifying patients for whom, in the
13 physician's professional judgment, medical marijuana may prove
14 beneficial.

15 **NEW SECTION. Sec. 3. NON-MEDICAL PURPOSES PROHIBITED.**

16 Nothing in this chapter shall be construed to supersede Washington
17 state law prohibiting the acquisition, possession, manufacture, sale,
18 or use of marijuana for non-medical purposes.

19 **NEW SECTION. Sec. 4. PROTECTING PHYSICIANS AUTHORIZING THE USE OF**
20 **MEDICAL MARIJUANA.**

21 A physician licensed under chapter 18.71 RCW or chapter 18.57 RCW shall
22 be excepted from the state's criminal laws and shall not be penalized
23 in any manner, or denied any right or privilege, for:

24 1. Advising a qualifying patient about the risks and benefits of
25 medical use of marijuana or that the qualifying patient may benefit
26 from the medical use of marijuana where such use is within a
27 professional standard of care or in the individual physician's
28 medical judgment; or

29 2. Providing a qualifying patient with valid documentation, based upon
30 the physician's assessment of the qualifying patient's medical
31 history and current medical condition, that the potential benefits
32 of the medical use of marijuana would likely outweigh the health
33 risks for the particular qualifying patient.

1 **NEW SECTION. Sec. 5. PROTECTING QUALIFYING PATIENTS AND PRIMARY**
2 **CAREGIVERS.**

- 3 1. If charged with a violation of state law relating to marijuana, any
4 qualifying patient who is engaged in the medical use of marijuana,
5 or any designated primary caregiver who assists a qualifying
6 patient in the medical use of marijuana, will be deemed to have
7 established an affirmative defense to such charges by proof of his
8 or her compliance with the requirements provided in this chapter.
9 Any person meeting the requirements appropriate to his or her
10 status under this chapter shall be considered to have engaged in
11 activities permitted by this chapter and shall not be penalized in
12 any manner, or denied any right or privilege, for such actions.
- 13 2. The qualifying patient, if eighteen years of age or older, shall:
14 (a) Meet all criteria for status as a qualifying patient;
15 (b) Possess no more marijuana than is necessary for the patient's
16 personal, medical use, not exceeding the amount necessary for
17 a sixty day supply; and
18 (c) Present his or her valid documentation to any law enforcement
19 official who questions the patient regarding his or her
20 medical use of marijuana.
- 21 3. The qualifying patient, if under eighteen years of age, shall
22 comply with subsection (2)(a) and (c) of this section. However,
23 any possession under subsection (2)(b) of this act, as well as any
24 production, acquisition, and decision as to dosage and frequency of
25 use, shall be the responsibility of the parent or legal guardian of
26 the qualifying patient.
- 27 4. The designated primary caregiver shall:
28 (a) Meet all criteria for status as a primary caregiver to a
29 qualifying patient;
30 (b) Possess, in combination with and as an agent for the
31 qualifying patient, no more marijuana than is necessary for
32 the patient's personal, medical use, not exceeding the amount
33 necessary for a sixty day supply;
34 (c) Present a copy of the qualifying patient's valid documentation
35 required by this chapter, as well as evidence of designation
36 to act as primary caregiver by the patient, to any law
37 enforcement official requesting such information;

- 1 (d) Be prohibited from consuming marijuana obtained for the
- 2 personal, medical use of the patient for whom the individual
- 3 is acting as primary caregiver; and
- 4 (e) Be the primary caregiver to only one patient at any one time.

5 **NEW SECTION. Sec. 6. DEFINITIONS.**

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

8 1. "Medical use of marijuana" means the production, possession, or
9 administration of marijuana, as defined in RCW 69.50.101(q), for
10 the exclusive benefit of a qualifying patient in the treatment of
11 his or her terminal or debilitating illness.

12 2. "Primary caregiver" means a person who:

- 13 (a) Is eighteen years of age or older;
- 14 (b) Is responsible for the housing, health, or care of the
- 15 patient;
- 16 (c) Has been designated in writing by a patient to perform the
- 17 duties of primary caregiver under this chapter.

18 3. "Qualifying Patient" means a person who:

- 19 (a) Is a patient of a physician licensed under chapter 18.71 or
- 20 18.57 RCW;
- 21 (b) Has been diagnosed by that physician as having a terminal or
- 22 debilitating medical condition;
- 23 (c) Is a resident of the state of Washington at the time of such
- 24 diagnosis;
- 25 (d) Has been advised by that physician about the risks and
- 26 benefits of the medical use of marijuana; and
- 27 (e) Has been advised by that physician that they may benefit from
- 28 the medical use of marijuana.

29 4. "Terminal or Debilitating Medical Condition" means:

- 30 (a) Cancer, human immunodeficiency virus (HIV), multiple
- 31 sclerosis, epilepsy or other seizure disorder, or spasticity
- 32 disorders; or
- 33 (b) Intractable pain, limited for the purpose of this chapter to
- 34 mean pain unrelieved by standard medical treatments and
- 35 medications; or
- 36 (c) Glaucoma, either acute or chronic, limited for the purpose of
- 37 this chapter to mean increased intraocular pressure unrelieved
- 38 by standard treatments and medications; or

1 (d) Any other medical condition duly approved by the Washington
2 state medical quality assurance board as directed in this
3 chapter.

4 5. "Valid Documentation" means:

5 (a) A statement signed by a qualifying patient's physician, or a
6 copy of the qualifying patient's pertinent medical records,
7 which states that, in the physician's professional opinion,
8 the potential benefits of the medical use of marijuana would
9 likely outweigh the health risks for a particular qualifying
10 patient; and

11 (b) Proof of Identity such as a Washington state driver's license
12 or identicard, as defined in RCW 46.20.035.

13 **NEW SECTION. Sec. 7. ADDITIONAL PROTECTIONS.**

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

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

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

23 **NEW SECTION. Sec. 8. RESTRICTIONS, AND LIMITATIONS REGARDING THE**
24 **MEDICAL USE OF MARIJUANA.**

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

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

30 3. Nothing in this chapter requires any physician to authorize the
31 use of medical marijuana for a patient.

32 4. Nothing in this chapter requires any accommodation of any medical
33 use of marijuana in any place of employment, in any school bus or
34 on any school grounds, or in any youth center.

35 5. It is a class C felony to fraudulently produce any record
36 purporting to be, or tamper with the content of any record for the

1 purpose of having it accepted as, valid documentation under
2 section 6(5)(a) of this act.

3 6. No person shall be entitled to claim the affirmative defense
4 provided in Section 5 of this act for engaging in the medical use
5 of marijuana in a way that endangers the health or well-being of
6 any person through the use of a motorized vehicle on a street,
7 road, or highway.

8 **NEW SECTION. Sec. 9. ADDITION OF MEDICAL CONDITIONS.**

9 The Washington state medical quality assurance board, or other
10 appropriate agency as designated by the governor, shall accept for
11 consideration petitions submitted by physicians or patients to add
12 terminal or debilitating conditions to those included in this chapter.
13 In considering such petitions, the Washington state medical quality
14 assurance board shall include public notice of, and an opportunity to
15 comment in a public hearing upon, such petitions. The Washington state
16 medical quality assurance board shall, after hearing, approve or deny
17 such petitions within one hundred eighty days of submission. The
18 approval or denial of such a petition shall be considered a final
19 agency action, subject to judicial review.

20 **NEW SECTION. Sec. 10. SEVERABILITY.**

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

25 **NEW SECTION. Sec. 11. CAPTIONS NOT LAW.**

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

27 **NEW SECTION. Sec. 12.**

28 Sections 1 through 11 of this act constitute a new chapter in Title 69
29 RCW.

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