

Emerging Issue: Medical Marijuana
Updated: Decision Points for Draft Legislation
 Prepared for the CFHHS Subcommittee on Medical Marijuana
 Updated Aug. 13, 2010

At its Aug. 12 meeting, the Children, Families, Health, and Human Services Interim Committee's subcommittee on medical marijuana reviewed a bill draft reflecting decisions made to date on changes to the Montana Medical Marijuana Act. The table below summarized for the subcommittee the issues raised in past meetings but not yet resolved. The table indicates which section of the bill draft contains or would contain the item under discussion.

Subcommittee members used this table to determine which of these remaining issues should be included in a final bill draft as well as the approach to take to an issue that was approved for inclusion. The table is updated to reflect the subcommittee's decisions in **bold-faced type**.

The bill draft under discussion on Aug. 12 did not contain a regulatory framework, as that issue was still under consideration by the subcommittee. The members decided on Aug. 12 to establish a regulatory system similar to the one adopted this year in Colorado that will allow for the establishment and state regulation of dispensaries, growers, and manufacturers of marijuana-infused products.

Bill Draft Section	Discussion Item	Include/Change?	Subcommittee Proposals for Language
Section 2	Rename/redefine caregiver	Yes	Change to "provider" and use new language
	Create definition for employee who is not a caregiver	Yes	Model on Colorado law
	Create definition for a grower	Yes	Model on Colorado law
	Consider additional requirements for physician definition, as included in draft	Yes	Include language as drafted
	Create a definition for plant	Yes	Use "mature" and "immature" plant definitions
	Change definition of usable marijuana	No	
	Change definition of written certification	Yes	Include language as drafted
	Require cardholder to be Montana resident	Yes	
	Look at ways to allow for laboratory analysis		

Bill Draft Section	Discussion Item	Include/Change?	Subcommittee Proposals for Language
Section 3	Establish acceptable forms of proof for Montana residency or allow the department to define in rule	No	Allow DPHHS to establish in rule
	Require 6-month delay before reapplication for a card if card is denied because of false information	Under Review	Review all penalty provisions for consistency with other state laws
	Allow physician to certify use of medical marijuana for less than 1 year	Yes	Include language as drafted
	Revoke card for failure to notify DPHHS of changes?	No	
Section 4	Review and determine which elements to include	Under Review	Revise section to generally incorporate Colorado law
	Determine appropriate licensing agency for caregivers	Yes	Department of Revenue under consideration as licensing agency
	Establish license fee; if so, by statute or rule?	Yes	Generally incorporate Colorado law
	Revoke license for failure to note change of address?	No	
	Reconsider subsection (2)(c)	No	Remove subsection
Section 5	Review physician affiliation limitations modeled after Colorado law	Yes	Include as drafted
Section 6	Time period of revocations for various violations	Under review	Review all penalty provisions for consistency with other state laws
Section 7	Revise allowable amount of usable marijuana	Yes	Establish ceiling of 2 oz. in 30 days
	Allow Montana caregivers to sell to out-of-state cardholders	No	
	Limit the amount of time during which an out-of-state cardholder may use medical marijuana in Montana	No	
Section 9	Decide whether to include new provision (4)(b)	Yes	Include as drafted
Section 10	Penalty for failure to carry card or license	Under Review	Review all penalty provisions for consistency with other state laws

Bill Draft Section	Discussion Item	Include/Change?	Subcommittee Proposals for Language
Section 11	Review exception for smoking of medical marijuana in licensed hospice	Yes	Allow exception for any type of medical use
	Prohibit medical use in health care facilities	Yes	Prohibit any medical use, with exception for hospices
	Prohibit public smoking and/or use	Yes	Prohibit public smoking and smoking that significantly adversely affects children
	Review new language related to DUI offenses	Yes	
	Determine penalty for driving under the influence	Under Review	Review all penalty provisions for consistency with other state laws
	Include all post-secondary schools	Yes	
Section 12	Consider penalty for fraudulent use	Under Review	Review all penalty provisions for consistency with other state laws
Other	Establish a procedure for adding to the list of debilitating medical conditions	No	
	Preamble discussing reasons for bill draft	Yes	
	Add purpose statement to 50-46-101	Yes	
	Consider effective dates	Yes	Determine sections that should be effective on passage and approval

The subcommittee also approved additional changes not on this list. They included:

- prohibiting an individual from growing medical marijuana in a residence unless the person is growing the marijuana for his or her own personal use;
- incorporating changes proposed by the business community to establish additional restrictions on medical use by employees and in the workplace and on an employee's ability to file a workers' compensation claim or lawsuit if the employee based on an action or injury stemming from medical use of marijuana;
- authorizing local governments to regulate medical marijuana businesses based on health, safety, and welfare issues; and
- allowing caregivers up to two years to come into compliance with any restrictions imposed by a local government.

