

## Emerging Issue: Medical Marijuana Summary of Work Group Recommendations

Prepared for the Children, Families, Health, and Human Services Interim Committee  
**UPDATED: October 2010**

The table below summarizes recommendations provided by the work group on medical marijuana and additional ideas provided by other stakeholders. It also indicates the section of law that would be affected and the level of support that the recommendations received from work group members.

The Children, Families, Health, and Human Services Interim Committee approved three bill drafts in August 2010 involving numerous aspects of the existing law and creating a new regulatory structure for the medical marijuana industry.

**The committee's decisions related to work group recommendations are indicated in bold-faced, italicized type below.**

| <b>Work Group Recommendations: Caregivers</b>                                     | <b>Work Group Level of Support</b> | <b>MCA Section</b> | <b>Status</b>              |
|---|------------------------------------|--------------------|----------------------------|
| Create a regulatory board for caregivers  | Full                               | New                | <b><i>Included*</i></b>    |
| Establish a tiered system of licensing and regulation for caregivers              | Full                               | New                | <b><i>Included</i></b>     |
| Allow a parent to select a caregiver for a minor child with a card                | Full                               | 50-46-103(3)       | <b><i>Not Included</i></b> |
| Allow caregivers to sell marijuana to other caregivers in a "closed-loop" system  | Full                               | New                | <b><i>Included</i></b>     |
| Create a new non-caregiver category for a person who may handle medical marijuana | Full                               | Throughout         | <b><i>Included</i></b>     |
| Clarify that caregivers may also be patients                                      | Full                               | Throughout         | <b><i>Included</i></b>     |
| Establish additional offenses that would prohibit a person from being a caregiver | Majority                           | 50-46-103(4)(b)    | <b><i>Included</i></b>     |
| Require a 50-state background check for caregivers                                | Majority                           | 50-46-103(4)(b)    | <b><i>Included</i></b>     |
| Establish ethical and educational requirements for caregivers                     | Majority                           | New                | <b><i>Not Included</i></b> |

\* Regulatory structure created in and overseen by Department of Revenue rather than an occupational licensing board

| <b>Work Group Recommendations: Patients and/or Physicians</b>   | <b>Work Group Level of Support</b> | <b>MCA Section</b>           | <b>Status</b>         |
|---|------------------------------------|------------------------------|-----------------------|
| Review the time period for which a registry card is valid   | Full                               | 50-46-107(7)                 | <i>Included</i>       |
| Review issues related to the definition/diagnosis of chronic pain & physician standards   | Majority                           | 50-46-102                    | <i>Included</i>       |
| Review the use of mass screening clinics  | Minority                           | New                          | <i>Included</i>       |
| <b>Work Group Recommendations: General Provisions</b>   |                                    |                              |                       |
| <b>Work Group Recommendations: General Provisions</b>   | <b>Work Group Level of Support</b> | <b>MCA Section</b>           | <b>Status</b>         |
| Review all definitions  | Full                               | 50-46-102                    | <i>Many Revised</i>   |
| Revise confidentiality provisions to allow additional sharing of information among state and local government agencies                | Full                               | 50-46-103(8)<br>50-46-202(1) | <i>Included</i>       |
| Review and amend the allowable amounts of marijuana**   | Full                               | 50-46-201(2)                 | <i>Included</i>       |
| Amend the reciprocity provisions for out-of-state patients and in-state caregivers  | Full                               | 50-46-201(8)                 | <i>Included</i>       |
| Establish a procedure for adding to the list of debilitating medical conditions   | Full                               | New                          | <i>Not Included</i>   |
| Require patients and caregivers to carry their registry cards; establish penalty  | Full                               | New                          | <i>Included</i>       |
| Establish a penalty for intentionally falsifying a registry application   | Full                               | New                          | <i>Included</i>       |
| Clarify that medical marijuana must be grown in Montana   | Majority                           | New or<br>50-46-103          | <i>Included</i>       |
| Clarify disciplinary authority of licensing boards for unprofessional conduct or other violations related to medical use of marijuana | Majority                           | 50-46-201(1)<br>50-46-201(4) | <i>Included</i>       |
| Require diagnosis of a medical condition before use of the affirmative defense  | Majority                           | 50-46-206(1)(b)              | <i>Repeal Section</i> |
| Determine whether to strike or amend 50-46-206(1)(b)  | Split                              | 50-46-206(1)(b)              | <i>Repeal Section</i> |

\*\*Amount increased from 1 ounce to 2 ounces, but cap of 2 ounces per month approved.

| <b>Work Group Recommendations: Prohibitions</b>                                    | <b>Work Group Level of Support</b> | <b>MCA Section</b> | <b>Status</b>          |
|--|------------------------------------|--------------------|------------------------|
| Amend the term "school grounds" to include any property owned by a school district | Full                               | 50-46-205          | <i>Included</i>        |
| Prohibit use and possession of marijuana on school property                        | Majority                           | 50-46-205          | <i>Included</i>        |
| Give local governments authority to regulate public use of marijuana               | Majority                           | 50-46-205          | <i>Not Included</i>    |
| Prohibit involuntary exposure to medical use of marijuana                          | Minority                           | 50-46-205          | <i>Not included***</i> |

\*\*\* Draft legislation prohibits smoking in public

The following ideas were raised during the Committee's April meeting, in public comment received on the issue, or by state agency representatives. However, they were not fully discussed by the work group members so were not among the group's formal recommendations. The ideas were presented to the Committee, which included many of them in the draft legislation.

| <b>Ideas Raised But Not Resolved: Caregivers</b>   | <b>Status</b>   |
|--|---|
| Limit the number of patients a caregiver may have  | <i>Included as part of the new regulatory structure</i>                                     |
| Require caregivers to pay a fee for the registry card  | <i>Included</i>   |
| Consider establishing fire, safety, and zoning regulations for caregiver operations  | <i>Rules may be developed by Department of Revenue; local governments also may regulate</i> |
| Prohibit caregiver operations within 1,000 feet of schools   | <i>Included</i>   |
| Establish residency requirements for caregivers  | <i>Included</i>   |
| Allow laboratory testing of medical marijuana  | <i>Included</i>   |
| Prohibit financial relationships between a physician and caregiver in connection with a physician's appointments with patients seeking written certification | <i>Included</i>   |

| <b>Ideas Raised But Not Resolved: Patients and/or Physicians</b>  | <b>Status</b>                                      |
|---|--|
| Allow physicians to revoke a written certification and notify DPHHS   | <i>Not included</i>                                |
| Require certifying physicians to be Montana residents with an established practice in Montana   | <i>Restrictions placed on location of practice</i> |
| Prohibit or regulate the use of telemedicine for written certifications   | <i>Addressed with Standard of Care Definition</i>  |
| Require more detailed information on applications to ensure medical marijuana is a treatment of last resort   | <i>Not included</i>                                |
| Allow an expedited process for certain medical conditions   | <i>Not included</i>                                |
| Require in-person meetings between the physician and patient and a physical exam or complete medical records exam   | <i>Addressed with Standard of Care Definition</i>  |
| Require physicians, not a third party, to keep records of patient visits  | <i>Addressed with Standard of Care Definition</i>  |
|   |  |
| <b>Ideas Raised But Not Resolved: General Provisions</b>  | <b>Status</b>                                      |
| Establish penalties for violations of various requirements for patients and caregivers  | <i>Included</i>                                    |
| Allow a registry card to be revoked for a violation of a drug law involving marijuana   | <i>Included</i>                                    |
| Establish a waiting period before a person whose card has been revoked may apply for a card again   | <i>Not included</i>                                |
| Require state-level health care programs that subsidize or provide reimbursement for prescription drugs to do the same for medical marijuana for patients who qualify | <i>Not included</i>                                |
|   |  |
| <b>Ideas Raised But Not Resolved -- Prohibitions</b>  | <b>Status</b>                                      |
| Amend the Clean Indoor Air Act to specify that medical marijuana is a prohibited smokable product   | <i>Included</i>                                    |
| Clarify that the workers' compensation program doesn't have to pay for medical marijuana  | <i>Included</i>                                    |

