

Emerging Issue: Medical Marijuana Summary of Work Group Recommendations

Prepared for the Children, Families, Health, and Human Services Interim Committee
UPDATED: July 15, 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 created a subcommittee to work on a bill draft revising the Medical Marijuana Act. The subcommittee has acted on some of the work group proposals.

The group's actions to date are indicated in bold-faced type below. The committee has not yet taken action on all items on the list.

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

Work Group Recommendations: Patients and/or Physicians	Level of Support	MCA Section	Status
Review the time period for which a registry card is valid	Full	50-46-107(7)	
Review issues related to the definition/diagnosis of chronic pain and physician standards	Majority	50-46-102	Approved
Review the use of mass screening clinics	Minority	New	Approved
Work Group Recommendations: General Provisions			
Work Group Recommendations: General Provisions	Level of Support	MCA Section	Status
Review all definitions	Full	50-46-102	In Process
Revise confidentiality provisions to allow additional sharing of information among state and local government agencies	Full	50-46-103(8) 50-46-202(1)	
Review and amend the allowable amounts of marijuana	Full	50-46-201(2)	In Process
Amend the reciprocity provisions for out-of-state patients and in-state caregivers	Full	50-46-201(8)	
Establish a procedure for adding to the list of debilitating medical conditions	Full	New	
Require patients and caregivers to carry their registry cards; establish penalty	Full	New	
Establish a penalty for intentionally falsifying a registry application	Full	New	Approved
Clarify that medical marijuana must be grown in Montana	Majority	New or 50-46-103	Approved
Clarify disciplinary authority of licensing boards for unprofessional conduct or other violations related to medical use of marijuana	Majority	50-46-201(1) 50-46-201(4)	
Require diagnosis of a medical condition before use of the affirmative defense	Majority	50-46-206(1)(b)	Strike Section
Determine whether to strike or amend 50-46-206(1)(b)	Split	50-46-206(1)(b)	Strike Section

Work Group Recommendations: Prohibitions	Level of Support	MCA Section	Status
Amend the term "school grounds" to include any property owned by a school district	Full	50-46-205	Approved
Prohibit use and possession of marijuana on school property	Majority	50-46-205	Approved
Give local governments authority to regulate public use of marijuana	Majority	50-46-205	
Prohibit involuntary exposure to medical use of marijuana	Minority	50-46-205	

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 are presented here in case the Committee would like to obtain additional information or incorporate any of them into draft legislation.

Ideas Raised But Not Resolved: Caregivers	Status
Limit the number of patients a caregiver may have	Under Discussion
Require caregivers to pay a fee for the registry card	Under Discussion
Consider establishing fire, safety, and zoning regulations for caregiver operations	More Information Requested
Prohibit caregiver operations within 1,000 feet of schools	
Establish residency requirements for caregivers	
Allow laboratory testing of medical marijuana	
Prohibit financial relationships between a physician and caregiver in connection with a physician's appointments with patients seeking written certification	More Information Requested

Ideas Raised But Not Resolved: Patients and/or Physicians	Status
Allow physicians to revoke a written certification and notify DPHHS	
Require certifying physicians to be Montana residents and have an established practice in Montana	Approved
Prohibit or regulate the use of telemedicine for written certifications	Approved via Standard of Care Definition
Require more detailed information on applications to ensure medical marijuana is a treatment of last resort	More Information Requested
Allow an expedited process for certain medical conditions	
Require in-person meetings between the physician and patient and a physical exam or complete medical records exam	Approved via Standard of Care Definition
Require physicians, not a third party, to keep records of patient visits	Approved via Standard of Care Definition
Ideas Raised But Not Resolved: General Provisions	Status
Establish penalties for violations of various requirements for patients and caregivers	Approved
Allow a registry card to be revoked for a violation of a drug law involving marijuana	Approved
Establish a waiting period before a person whose card has been revoked may apply for a card again	
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 for health care support	
Ideas Raised But Not Resolved -- Prohibitions	Status
Amend the Clean Indoor Air Act to specify that medical marijuana is a prohibited smokable product	Approved
Clarify that the workers' compensation program doesn't have to cover the costs of medical marijuana	Approved