

Emerging Issue: Medical Marijuana Review of Law Enforcement Issues

Prepared for the CFHHS Subcommittee on Medical Marijuana
July 2010

Background

Law enforcement officials believe several provisions of the Medical Marijuana Act make it difficult for both officers and prosecutors to pursue potential violations of the Act or other drug laws. They also believe some provisions could be added to make it easier for law enforcement to forego investigating marijuana-related complaints because they would know whether the complaint involved a person who was a registered cardholder.

The table below summarizes law enforcement recommendations presented to the Children, Families, Health, and Human Services Interim Committee and to legislative staff since April, as well as any work group recommendation related to the topic.

Topic	Law Enforcement Recommendation	Work Group Recommendation
Limits on caregiver registrations	Prohibit a person with any felony conviction from being a caregiver	Majority support for reviewing the list of felony offenses and expanding disqualifying offenses
Background checks	Conduct a 50-state background check before registering a caregiver or any employee	Majority support of expanded background checks for caregivers; checks for employees not discussed
Location of growing operations	Require caregivers to register the location of their businesses and grow operations with DPHHS, which would make the list available to law enforcement and other regulatory entities	Not specifically discussed, but general agreement that caregiver operations should be subject to inspection
	Require that medical marijuana be grown in Montana	Majority support
Recordkeeping	Require caregivers to maintain transaction records	General agreement that transactions should be trackable
Affirmative defense	Clarify that patients and caregivers must be registered to use the affirmative defense and caregivers must comply with 50-46-103	General agreement to require patients to have proof that debilitating condition was diagnosed before arrest
	Strike 50-46-206(3), allowing more than 1 ounce	Split opinion on changes to this subsection
	Not specifically addressed	Split opinion on amending/striking 50-46-206(1)(b)

Allowable amounts of medical marijuana	Make distinctions on the amounts allowed for various types of marijuana products	Unanimous agreement; no specific recommendation. Discussion of the need to change the term "dried marijuana" to "cured marijuana."
Caregiver-to-caregiver sales	Prohibit such sales	Full support for such sales
Transportation of medical marijuana	Clarify that only a caregiver or patient may transport medical marijuana	Full support for creating a non-caregiver category for a person to handle and transport medical marijuana
Licensure	Require caregiver to be licensed, rather than just registered with state	No specific discussion, but licensure would be required to allow for broader background checks; those checks had majority support
Possession of registry card	Require patients to carry registry card and caregivers to carry license and identification; penalty for failure to do so	Full support for carrying registry card at all times; identification requirement was not discussed.
Allowable number of plants	Clarify allowable possession amounts for a patient and caregiver when the patient has a designated caregiver	Not specifically discussed
Definition of plant	Create a definition of a plant to provide additional guidance on allowable number of plants	Not specifically discussed
Revocation of cards	Provide for permanent revocation of registry cards if a caregiver or patient is convicted of a drug offense or of violating provisions of the Medical Marijuana Act	Permanent revocation not discussed; full support for penalty for falsifying registry information

Issues Raised Without Recommended Solutions

- Driving under the influence of marijuana
- Addicted probationers and parolees who are using medical marijuana are unable to obtain chemical dependency treatment, which is often required as part of the terms of their probation or parole
- Probation or parole officers must give offenders permission to engage in a business; they are sometimes presented with requests from chemically dependent offenders who want to be caregivers and grow medical marijuana