

POTENTIAL REVISIONS TO MEDICAL MARIJUANA ACT
DEFINITIONS

"50-46-102. Definitions. As used in this chapter, the following definitions apply:

(1) (a) "Caregiver" means an individual, 18 years of age or older who has agreed to undertake responsibility for managing the well-being of a person with respect to the medical use of marijuana. A qualifying patient may have only one caregiver at any one time.

(b) The term does not include the qualifying patient's physician.

QUESTION: Does the committee want to use a term other than "caregiver" to describe this person?

(2) "Debilitating medical condition" means:

(a) cancer;ⁱ

(b) glaucoma;ⁱ

(c) ~~or~~ positive status for human immunodeficiency virus, ~~or~~ acquired immune deficiency syndrome, ~~or~~ the treatment of these conditions;

~~(b) a chronic or debilitating disease or medical condition or its treatment that produces one or more of the following:~~

~~(i) severe anorexia or cachexia or wasting syndrome;~~

(d) severe ~~or~~ chronic pain;

(e) severe ~~intractable~~ nausea or vomiting;

(f) seizures, including but not limited to seizures caused by epilepsy; ~~or~~

~~(v) severe or persistent muscle spasms, including but not limited to spasms caused by~~

(g) multiple sclerosis;

~~(h) ~~or~~ Crohn's disease; ~~or~~~~

(i) painful peripheral neuropathy;

(j) amyotrophic lateral sclerosis (Lou Gehrig's disease);

(k) damage to the nervous tissue of the spinal cord, with objective neurological indication of intractable spasticity;

(l) hepatitis c infection currently receiving antiviral treatment;

(l) admitted into hospice care in accordance with rules promulgated by the department; or

~~(e)-(m)~~ any other medical condition or treatment for a medical condition adopted by the department by rule.

(3) "Department" means the department of public health and human services.

(4) "Employee" means a person who is employed by a caregiver or grower and who has limited authority to handle marijuana for medical use.

NOTE: The work group suggested the committee consider adding this definition. The scope of the employee's duties would need to be specified in the statute, as would the level -- if any -- of background check that would be required for an employee.

(4) "Grower" means a person authorized to possess paraphernalia and to cultivate, possess, and manufacture marijuana for sale to a caregiver.

NOTE: The work group suggested the committee consider adding this definition. Questions to be answered include whether growers could also be caregiver and what amount of marijuana a grower could possess.

~~(4)~~(5) "Marijuana" has the meaning provided in 50-32-101.

~~(5)~~(6) "Medical use" means:

(a) the acquisition, possession, cultivation, manufacture, delivery, transfer, or transportation of marijuana or paraphernalia by a qualifying patient or a caregiver relating to the consumption of marijuana to alleviate the symptoms or effects of a qualifying patient's debilitating medical condition;

(b) the use of marijuana or paraphernalia by a qualifying patient to alleviate the symptoms or effects of the patient's debilitating medical condition; or

(c) the use of paraphernalia by a caregiver for the cultivation, manufacture, delivery, transfer, or transportation of marijuana for use by a qualifying patient.

~~(6)~~(7) "Paraphernalia" has the meaning provided in 45-10-101.

~~(7)~~(8) "Physician" means a person who is licensed under Title 37, chapter 3, and has an established office in Montana.

NOTE: The committee may also want to consider whether the person needs to work a certain period of the year in state.

(9) "Plant" means any portion of a marijuana plant that contains a root system.

NOTE: This definition was suggested by law enforcement.

~~(8)~~(10) "Qualifying patient" means a person who has been diagnosed by a physician as having a debilitating medical condition.

NOTE: Many states establish a residency requirement for patients. The committee may want to consider whether to include that requirement.

~~(9)~~(11) "Registry identification card" means a document issued by the department that identifies a person as a ~~qualifying~~ registered patient or caregiver.

(12) "Standard of care" means the following activities undertaken by a physician who provides written certification to a person with a debilitating medical condition:

- (i) obtaining the patient's medical history;
- (ii) performing a relevant physical examination;
- (iii) reviewing prior treatment and treatment response for the debilitating medical condition;
- (iv) obtaining and reviewing relevant diagnostic test results related to the debilitating medical condition;
- (v) discussing with and ensuring that the patient understands the advantages, disadvantages, alternatives, potential adverse effects, and expected response to the recommended treatment;
- (vi) monitoring the response to treatment and possible adverse effects;
- (vii) creating and maintaining patient records that remain with the physician; and
- (viii) notifying the patient's primary care physician when appropriate.

NOTE: Defining the term in this section will require that it be used elsewhere in the statutes. One possibility is adding it to the definition of written certification. It also could be incorporated into a section outlining the procedures for obtaining written certification.

~~(10)~~ (13) (a) "Usable marijuana" means the dried leaves and flowers of marijuana and any mixture or preparation of marijuana.

(b) The term does not include the seeds, stalks, and roots of the plant.

NOTE: Some work group members wanted the word "dried" to be changed to "cured." The subcommittee may want to ask for more information on the effects such a change would have.

~~(11)~~ (14) (a) "Written certification" means a qualifying patient's medical records or a statement signed by a physician stating that in the physician's professional opinion, after having completed a full assessment of the qualifying patient's medical history and current medical condition made ~~in the course of a bona fide physician-patient relationship~~, the qualifying patient has a debilitating medical condition and the potential benefits of the medical use of marijuana would likely outweigh the health risks for the qualifying patient.

(b) The written certification must be provided in a manner that meets the standard of care for physicians."