

GUIDANCE TO PHYSICIANS REGARDING MEDICAL MARIJUANA

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Medical Staff

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POLICY

This policy is to provide guidance to UW Medicine physicians regarding the legal and policy requirements around the medical use of marijuana by patients . UW physicians who wish to provide their patients with valid documentation for medical marijuana must follow the policy guidelines listed below.

I. STATE AND FEDERAL LAW REGARDING MEDICAL MARIJUANA

1. State Law

Washington law exempts qualifying patients, primary caregivers, and authorizing physician under state laws.

2. Federal Law

Federal law prohibits prescribing, distributing, obtaining, possessing, or cultivating marijuana for any purpose, or assisting a person in doing any of these activities.

Marijuana is currently classified as a Schedule I drug, meaning under federal law it has no generally recognized medical use. A physician who provides nothing more than his or her professional opinion as to whether use of marijuana for medical purposes would benefit a patient is not subject to criminal prosecution. *Conant v. Walters*, 309 F.3d 629 (9th Cir. 2002)

3. Definitions:

The following definitions are relevant to Washington state law regarding medical use of marijuana:

a. "Primary caregiver" means a person who:

(a) Is eighteen years of age or older;

(b) Is responsible for the housing, health, or care of the patient;

(c) Has been designated in writing by a patient to perform the duties of primary caregiver under this chapter.

- b. **"Qualifying patient"** means a person who:
- (a) Is a patient of a physician licensed under chapter [18.71](#) or [18.57](#) RCW;
 - (b) Has been diagnosed by that physician as having a terminal or debilitating medical condition;
 - (c) Is a resident of the state of Washington at the time of such diagnosis;
 - (d) Has been advised by that physician about the risks and benefits of the medical use of marijuana; and
 - (e) Has been advised by that physician that they may benefit from the medical use of marijuana.

II. PROCEDURE

The patient must be under the care of a physician (MD or DO) licensed in Washington. Physicians should authorize medical marijuana use only for those patients with whom they have an established provider-patient relationship and for whom they are primary medical providers. For patients with a non-physician primary provider, the patient should be referred to an attending physician for assessment and potential medical marijuana authorization.

1. Physicians must evaluate the patient and determine if the patient has a qualifying condition under state law. Qualifying conditions are:
 - (a) Cancer, human immunodeficiency virus (HIV), multiple sclerosis, epilepsy or other seizure disorder, or spasticity disorders; or
 - (b) Intractable pain, limited for the purpose of this chapter [69.51A RCW] to mean pain unrelieved by standard medical treatments and medications; or
 - (c) Glaucoma, either acute or chronic, limited for the purpose of this chapter to mean increased intraocular pressure unrelieved by standard treatments and medications; or
 - (d) Any other medical condition duly approved by the Washington State Medical Quality Assurance Commission. Since the passage of the initiative the Commission has added the following:
 1. Crohn's Disease with debilitating symptoms unrelieved by standard treatments or medications
 2. Hepatitis C with debilitating nausea and/or intractable pain unrelieved by standard treatments or medications
 3. Any disease, including anorexia, which results in nausea, vomiting, wasting, appetite loss, cramping, seizures, muscle spasms, and/or spasticity, when these symptoms are unrelieved by standard treatments.

2. Physicians should/must perform a risk/benefit analysis of the use of medical marijuana for the patient based on the current medical literature and standard of care and form an opinion as to whether or not the potential benefits of the medical use of marijuana would likely outweigh the health risks for the patient. The analysis and opinion should be documented in the medical record.

3. If the physician's professional opinion is that the potential benefits of the medical use of marijuana would likely outweigh the health risks for the patient, the physician must obtain informed consent from the patient for the medical use of marijuana. The medical record should reflect the informed consent process.

a. Physicians should counsel patients about risks, benefits, and treatment options including non-use of medical marijuana use. The patient must be advised by his/her physician of the risks and benefits of medical marijuana.

b. Physicians authorizing medical marijuana should/must communicate and document the limits of physician knowledge about marijuana use, using the "Patient Consent for Medical Use of Marijuana" and "Physician Statement of Opinion Regarding Medical Use of Marijuana" forms. The limits on physician knowledge include:

1. Lack of conclusive scientific data regarding the potential health risks involved with usage of medical marijuana, e.g., long-term effects on the brain in the areas of memory; coordination and cognition; respiratory damage; lung cancer; and physical and psychological dependence.

2. Lack of conclusive scientific data about any benefits of medical marijuana use.

3. Marijuana is not a regulated prescription drug so there are risks of impurities in marijuana that may be potentially dangerous to the patient and the potency of marijuana may also be unknown.

4. There is limited scientific information about potential interactions with high-risk patient populations. Physicians should obtain information regarding the patient's history of substance abuse (legal and illegal), including the patient's prior use of marijuana.

5. There is limited scientific information about potential interactions for patients with psychiatric illness (e.g., depression, bipolar illness, and psychosis) who may experience a worsening of symptoms due to marijuana use. Any authorization for such patients should be carefully considered and, if possible, discussed with the patient's mental health provider.

6. There is limited scientific information about potential interactions with prescription drug therapy. There may also be unknown side effects associated with medical marijuana use.

c. Physicians should/must warn patients of the potential adverse effects that marijuana use may have on cognitive and physical abilities, including coordination.

d. Physicians should/must warn patients that it is the responsibility of the patient the use marijuana in a responsible manner and in a way that does not create the risk of harm other individuals. Physicians should/must warn patients not to engage in potentially dangerous activities such as driving or operating heavy machinery while using medical marijuana.

4. Physicians may only authorize medical marijuana for Washington residents. Physicians should obtain proof of Washington residency (i.e., Washington driver's license or "identocard" card, available from the Washington State Department of Licensing). Washington law requires the patient to be a Washington resident at the time of diagnosis.

5. Physicians and patient must complete the three required forms:

Patient Consent for Medical Use of Marijuana

Physician Statement of Opinion Regarding Medical Use of Marijuana

Medical Marijuana Residency Documentation

The original "Patient Consent for Medical Use of Marijuana" and Medical Marijuana Residency Documentation (along with proof of valid Washington state residency (a copy of the patient's Washington driver's license or "identocard")) should be placed in the medical record. The original Physician Statement of Opinion Regarding Medical Use of Marijuana should be given to the patient; a copy should be placed in the medical record.

In the event a patient is unable to provide informed consent, has a surrogate decision maker, or is a minor, refer to and follow UW Medicine policies for consent in these circumstances.

III. ADDITIONAL REQUIREMENTS: :

1. Physicians must not prescribe marijuana. It is prohibited under federal law to knowingly or intentionally distribute, dispense or possess marijuana. Violation of federal law may result in significant penalties, including imprisonment and fines. It can also result in revocation of a physician's DEA registration and prevent the physician from treating Medicare and Medicaid patients.

2. Physicians should in no way assist the patient in obtaining marijuana. Physicians should not fill out forms (other than UW documents) or direct patients to marijuana buyers' clubs. Patient counseling should be limited to the risks and benefits of medical marijuana use for one of the above-listed conditions, similar to the process they physician would undertake in obtaining informed consent for any other medical procedure, therapy or intervention.

3. The law does not require a physician to evaluate patients or provide an opinion on the use of marijuana for any patient.

4. . Physicians or their designees may affirm signing of the physician opinion form for example, if contacted by another health care provider, or the police. **No affirmation or acknowledgement should be provided to marijuana supplies, growers, cooperatives, buyer's clubs or other similar organizations** as this may place the physician at risk of prosecution for assisting the patient in obtaining an illegal substance.

5. Authorization Renewal Process. The UW " Physician Statement of Opinion Regarding Medical Use of Marijuana

" form expires six months from its completion date, which is specified on the form. If a physician wishes to renew an statement of opinion for medical marijuana, all steps set forth in section II above should be followed again, including the patient signing a new " Patient Consent for Medical Use of Marijuana "" form.