



MEDICAL MARIJUANA & US Laws

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HISTORICAL TIMELINE

- In **1972** marijuana was placed in **Schedule I** of the **Controlled Substances Act**, representing that the US government considered it to have "no accepted medical use in treatment in the United States."
- **14 of 50 US states** currently have approved the medical use of marijuana for qualified patients.

1972

- **1972** The Consumers' Union, the parent company of *Consumer Reports* magazine, published a book titled *Licit & Illicit Drugs* that recommended, among other things, "...the immediate repeal of all federal laws governing the growing, processing, transportation, sale, possession, and use of marijuana... Consumers' Union recommends that each of the fifty states similarly repeal its existing marijuana laws and pass new laws legalizing the cultivation, processing, and orderly marketing of marijuana -- subject to appropriate regulations."

1972 Consumers' Union



1972

- Drs. Hepler, Frank and Ungerleider publishes a study in the American Journal of Ophthalmology which finds that the use of marijuana is associated with a decrease in intraocular pressure.

Dec. 1972 [American Journal of Ophthalmology](#), Pages 1185-1190.

1976

- **Nov. 24** A Washington, D.C. man (Robert Randall) afflicted by glaucoma employs the little-used Common Law *Doctrine of Necessity* to defend himself against criminal charges of marijuana cultivation (*US v. Randall*). On Nov. 24, 1976, federal Judge James Washington rules Randall's use of marijuana constitutes a "medical necessity."

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1978

- **1978** As a result of a settlement agreement in a lawsuit against the government (*Randall v. US*), a procedure is devised to allow patients to receive medical marijuana from the US government (NIDA).

"Since its inception in 1974, NIDA has been the sole administrator of a contract to grow cannabis (marijuana) for research purposes and the only legal source for cannabis in the United States."

"NIDA has continued to grow cannabis in order to provide a contamination-free source of cannabis material with consistent and predictable potency for use in biomedical research." NIDA produces marijuana cigarettes "in three potencies: strength 1: 3-4%; strength 2: 1.8-2.2%; and strength 3: placebo, as close to 0% as possible."

A photograph of several cannabis plants in a grow room, illuminated by purple and blue grow lights. The plants are tall and have many green leaves. The background is dark, and the lighting creates a strong contrast with the green foliage.

1989

- DEA Director John Lawn orders that cannabis remain listed as a Schedule I narcotic - having no known medical use.



1994

In Feb., the US District Court rejects a petition for review of the rescheduling of Cannabis. The ruling leads to a 5-part "revised formulation for determining whether a drug has a currently accepted medical use:

The drug's chemistry must be known and reproducible;

There must be adequate safety studies;

There must be adequate and well-controlled studies proving efficacy;

The drug must be accepted by qualified experts; and

The scientific evidence must be widely available.



1994

- The Massachusetts Department of Health issues regulations to create an affirmative medical defense for patients who use marijuana for a legitimate medical need. The Department also begins developing a blueprint for a state-run medical marijuana research project. Governor William Weld endorses the action and states that he has "no problem" with the use of marijuana as a therapeutic agent.



1996

- Voters in Arizona (Proposition 200) and California (Proposition 215) approve initiatives endorsing the legal use of marijuana under a doctor's supervision.



1996

Senator Orrin Hatch calls a special hearing of the Senate Judiciary Committee to denounce the passage of the California and Arizona initiatives. Thomas Constantine, Administrator of the DEA, testifies that the federal government could "take both administrative and criminal actions against doctors who violate the terms of their DEA drug registrations to prescribe controlled substances."



1996

The Office of National Drug Control Policy (ONDCP) issues a press release stating: "Federal law is unchanged by the passage of these initiatives. The decision to bring appropriate criminal or administrative enforcement action will be decided on a case by case basis.



1996

The Clinton administration announces its plan to institute criminal prosecution of physicians who prescribe or recommend marijuana in California and Arizona, and to deprive them of their right to write prescriptions of any kind. The plan further recommends that such physicians be excluded from Medicaid and Medicare.



1997

- The Arizona Legislature guts medical marijuana provisions included in Proposition 200 by approving a law mandating that state licensed physicians may only prescribe marijuana after it has been approved by the federal Food and Drug Administration (FDA). Backers of Proposition 200 announce that they will file a referendum to block the Legislature's action.



2000

- **June 14** The Hawaii state legislature passes SB 862, which removes state-level criminal penalties for medical marijuana use, possession and cultivation. This is the first law of this nature enacted by a state legislature.



2000

- Washington, D.C. moves marijuana from **Schedule V to Schedule III** in 2000, which means "The substance has currently accepted medical use in treatment in the United States or the District of Columbia."



2000

Nevada voters approve ballot Question 9, which removes state-level criminal penalties for medical marijuana use, possession and cultivation.

Colorado voters approve ballot Amendment 20, which removes state-level criminal penalties for medical marijuana use, possession and cultivation



2002

- The California Supreme Court votes unanimously to uphold Proposition 215, ruling that the medical marijuana initiative "renders possession and cultivation of marijuana non-criminal for a qualified patient or primary caregiver."

[California Supreme Court, ruling entered July 18, 2002](#)



2002

Oct. 29 The US 9th Circuit Court of Appeals rules 3-0 that "the federal government **may not revoke a doctor's license** to dispense medications, or investigate a physician, for recommending marijuana to sick patients."

2002 [The Los Angeles Times](#)

2004

May 7 "The Medical Board of California marked a milestone for California consumers and physicians by adopting a statement clarifying that the **recommendation of medical marijuana by physicians in their medical practice will not have any effect against their physician's license if they follow good medical practice.**

may 13, 2004 [California Medical Board](#) - Press Release



2004

- **Vermont passes S.76, which is allowed into law by its Governor. This makes Vermont the 10th state in the US to decriminalize marijuana for medical purposes - joining Alaska, California, Colorado, Hawaii, Maine, Maryland, Nevada, Oregon, and Washington - and only the second to do so legislatively, with Hawaii being the first.**

May 25, 2004 [New York Times](#)

2004

- **Montana** voters by a significant margin (62 percent) passed Initiative 148, allowing certain patients with specific medical conditions to alleviate their symptoms through the limited use of marijuana under medical supervision.

The new law, effective immediately upon passage, also allows qualified patients and their caregivers to grow and/or possess a restricted number of marijuana plants.

Montana is the **10th state** to pass a medical marijuana law
Oct. 3, 2008 [Montana Department of Public Health and Human Services](#)



2005

"A week after the Supreme Court ruled that medical marijuana laws in California and nine other states are no bar to federal drug prosecution, the House voted down an amendment that would have stopped the Justice Department from bringing such cases. Although medical marijuana advocates never thought they would have the votes to bar federal prosecutions, some had predicted that because of the heightened interest after the Supreme Court's ruling that they would do better than Wednesday's 264-161 vote."

June 17, 2005 [Sacramento Bee](#)



2006

- **"Rhode Island on [1/3/06] became the 11th state to legalize medical marijuana and the first since the US Supreme Court ruled in June that patients who use the drug can still be prosecuted under federal law.**



2007

New Mexico Governor Bill Richardson signed medical marijuana legislation into law on Apr. 2, 2007, making **New Mexico the 12th state** to legalize medical marijuana. The state Senate approved the bill 32-3 and the House passed the bill 36-31.

The bill requires the **state government to authorize the distribution of medical marijuana to qualifying patients.**



2010

- **Feb. 17** "The Iowa Board of Pharmacy today issued a recommendation that the Iowa Legislature reclassify marijuana from **Schedule I of the Iowa Controlled Substances Act into Schedule II of the Act. A Schedule II drug includes narcotic drugs with a high potential for abuse but with currently accepted medical use in treatment.**"

Feb. 10, 2010 "[Iowa Board of Pharmacy Issues Recommendation](#)"

SUMMARY

- Fourteen states and DC have enacted laws that legalize medical marijuana.
- **Alaska, California, Colorado, DC, Hawaii, Maine, Michigan, Montana, Nevada, New Jersey, New Mexico, Oregon, Rhode Island, Vermont, Washington**

SUMMARY

- Two states have passed laws that, although favorable towards medical marijuana, do not legalize its use.
- **Maryland, Arizona.**

ALASKA : approved conditions

- Cachexia, cancer, chronic pain, epilepsy and other disorders characterized by seizures, glaucoma, HIV or AIDS, multiple sclerosis and **other disorders characterized by muscle spasticity**, and nausea. **Other conditions are subject to approval** by the Alaska Department of Health and Social Services

CALIFORNIA : approved conditions

- AIDS, anorexia, arthritis, cachexia, cancer, chronic pain, glaucoma, migraine, persistent muscle spasms, including spasms associated with multiple sclerosis, seizures, including seizures associated with epilepsy, severe nausea; **Other chronic or persistent medical symptoms.**

COLORADO : approved conditions

- Cancer, glaucoma, HIV/AIDS positive, cachexia; severe pain; severe nausea; seizures, including those that are characteristic of epilepsy; or persistent muscle spasms, including those that are characteristic of multiple sclerosis. **Other conditions are subject to approval** by the Colorado Board of Health.

DC : approved conditions

- HIV, AIDS, glaucoma, multiple sclerosis, cancer, other conditions that are chronic, long-lasting, debilitating, or that interfere with the basic functions of life, **serious medical conditions for which the use of medical marijuana is beneficial**, patients undergoing treatments such as chemotherapy and radiotherapy.

HAWAII : approved conditions

- Cancer, glaucoma, positive status for HIV/AIDS; A chronic or debilitating disease or medical condition or its treatment that produces cachexia or wasting syndrome, severe pain, severe nausea, seizures, including those characteristic of epilepsy, or severe and persistent muscle spasms, including those characteristic of multiple sclerosis or Crohn's disease. Other conditions are subject to approval by the Hawaii Department of Health.

MAINE : approved conditions

- epilepsy and other disorders characterized by seizures; glaucoma; multiple sclerosis and other disorders characterized by muscle spasticity; and nausea or vomiting as a result of AIDS or cancer chemotherapy.

MICHIGAN : approved conditions

- Approved for treatment of debilitating medical conditions, defined as cancer, glaucoma, HIV, AIDS, hepatitis C, amyotrophic lateral sclerosis, Crohn's disease, agitation of Alzheimer's disease, nail patella, cachexia or wasting syndrome, severe and chronic pain, severe nausea, seizures, epilepsy, muscle spasms, and multiple sclerosis.

MONTANA : approved conditions

- Cancer, glaucoma, or positive status for HIV/AIDS, or the treatment of these conditions; a chronic or debilitating disease or medical condition or its treatment that produces cachexia or wasting syndrome, severe or chronic pain, severe nausea, seizures, including seizures caused by epilepsy, or severe or persistent muscle spasms, including spasms caused by multiple sclerosis or Crohn's disease; or **any other medical condition or treatment for a medical condition adopted by the department by rule**

NEVADA : approved conditions

- AIDS; cancer; glaucoma; and any medical condition or treatment to a medical condition that produces cachexia, persistent muscle spasms or seizures, severe nausea or pain.
Other conditions are subject to approval by the health division of the state Department of Human Resources.

NEW JERSEY : approved conditions

- Seizure disorder, including epilepsy, intractable skeletal muscular spasticity, glaucoma; severe or chronic pain, severe nausea or vomiting, cachexia, or wasting syndrome resulting from HIV/AIDS or cancer; amyotrophic lateral sclerosis (Lou Gehrig's Disease), multiple sclerosis, terminal cancer, muscular dystrophy, or inflammatory bowel disease, including Crohn's disease; terminal illness, **if the physician has determined a prognosis of less than 12 months of life or any other medical condition or its treatment that is approved by the Department of Health and Senior Service**

NEW MEXICO : approved conditions

- The 15 current qualifying conditions for medical cannabis are: severe chronic pain, **painful peripheral neuropathy**, intractable nausea/vomiting, severe anorexia/cachexia, **hepatitis C infection**, Crohn's disease, Post-Traumatic Stress Disorder, ALS (Lou Gehrig's disease), cancer, glaucoma, multiple sclerosis, damage to the nervous tissue of the spinal cord with intractable spasticity, epilepsy, HIV/AIDS, and hospice patients.

OREGON : approved conditions

- Cancer, glaucoma, positive status for HIV/AIDS, or treatment for these conditions; A medical condition or treatment for a medical condition that produces cachexia, severe pain, severe nausea, seizures, including seizures caused by epilepsy, or persistent muscle spasms, including spasms caused by multiple sclerosis. **Other conditions are subject to approval** by the Health Division of the Oregon Department of Human Resources.

RHODE ISLAND : approved conditions

- Cancer, glaucoma, positive status for HIV/AIDS, **Hepatitis C**, or the treatment of these conditions; A chronic or debilitating disease or medical condition or its treatment that produces cachexia or wasting syndrome; severe, debilitating, chronic pain; severe nausea; seizures, including but not limited to, those characteristic of epilepsy; or severe and persistent muscle spasms, including but not limited to, those characteristic of multiple sclerosis or Crohn's disease; or **agitation of Alzheimer's Disease**; or any other medical condition or its treatment approved by the state Department of Health.

VERMONT : approved conditions

- Cancer, AIDS, positive status for HIV, multiple sclerosis, or the treatment of these conditions if the disease or the treatment results in severe, persistent, and intractable symptoms; or a disease, medical condition, or its treatment that is chronic, debilitating and produces severe, persistent, and one or more of the following intractable symptoms: cachexia or wasting syndrome, severe pain or nausea or seizures.

WASHINGTON : approved conditions

- Cachexia; cancer; HIV or AIDS; epilepsy; glaucoma; intractable pain (defined as pain unrelieved by standard treatment or medications); and multiple sclerosis. **Other conditions are subject to approval by the Washington Board of Health.**

ALASKA : possession / cultivation

- Patients (or their primary caregivers) may legally possess **no more than one ounce of usable marijuana**, and may cultivate no more than six marijuana plants, of which no more than three may be mature. The law establishes a confidential state-run patient registry that issues identification cards to qualifying patients.

CALIFORNIA : possession / cultivation

- Qualified patients and their primary caregivers may possess **no more than eight ounces of dried marijuana and/or six mature (or 12 immature) marijuana plants**. However, S.B. 420 allows patients to possess larger amounts of marijuana when recommended by a physician. The legislation also allows counties and municipalities to approve and/or maintain local ordinances permitting patients to possess larger quantities of medicinal pot than allowed under the new state guidelines.
- S.B. 420 also grants implied legal protection to the state's medicinal marijuana dispensaries, stating, "Qualified patients, persons with valid identification cards, and the designated primary caregivers of qualified patients ... who associate within the state of California in order collectively or cooperatively to cultivate marijuana for medical purposes, shall not solely on the basis of that fact be subject to state criminal sanctions."

COLORADO : possession / cultivation

- A patient or a primary caregiver who has been issued a Medical Marijuana Registry identification card may possess **no more than two ounces of a usable form of marijuana and not more than six marijuana plants**, with three or fewer being mature, flowering plants that are producing a usable form of marijuana.
- Patients who do not join the registry or possess greater amounts of marijuana than allowed by law may argue the "affirmative defense of medical necessity" if they are arrested on marijuana charges.

DC : possession / cultivation

- The maximum amount of medical marijuana that any qualifying patient or caregiver may possess at any moment is **two ounces of dried medical marijuana**. The Mayor may increase the quantity of **dried medical marijuana that may be possessed up to four ounces**; and shall decide limits on medical marijuana of a form other than dried..

HAWAII : possession / cultivation

- The amount of marijuana that may be possessed jointly between the qualifying patient and the primary caregiver is an **"adequate supply,"** which shall not exceed **three mature marijuana plants, four immature marijuana plants, and one ounce of usable marijuana** per each mature plant.

MAINE : possession / cultivation

- Patients (or their primary caregivers) may legally possess **no more than one and one-quarter (1.25) ounces of usable marijuana, and may cultivate no more than six marijuana plants**, of which no more than three may be mature. Those patients who possess greater amounts of marijuana than allowed by law are afforded a "simple defense" to a charge of marijuana possession.

MICHIGAN : possession / cultivation

- Patients may possess up to **two and one-half (2.5) ounces** of usable marijuana and twelve marijuana plants kept in an enclosed, locked facility. The twelve plants may be kept by the patient only if he or she has not specified a primary caregiver to cultivate the marijuana for him or her.

MONTANA : possession / cultivation

- A qualifying patient and a qualifying patient's caregiver may each possess **six marijuana plants and one ounce of usable marijuana.** "Usable marijuana" means the dried leaves and flowers of marijuana and any mixture or preparation of marijuana.

NEVADA : possession / cultivation

- Patients (or their primary caregivers) may legally possess **no more than one ounce of usable marijuana**, three mature plants, and four immature plants.

NEW JERSEY : possession / cultivation

- Physicians determine how much marijuana a patient needs and give written instructions to be presented to an alternative treatment center. **The maximum amount for a 30-day period is two ounces.**

NEW MEXICO : possession / cultivation

- Patients have the right to possess **up to six ounces of usable cannabis, four mature plants and 12 seedlings**. Usable cannabis is defined as dried leaves and flowers; it does not include seeds, stalks or roots. A primary caregiver may provide services to a maximum of four qualified patients under the Medical Cannabis Program.

OREGON : possession / cultivation

- A registry identification cardholder or the designated primary caregiver of the cardholder may possess **up to six mature marijuana plants and 24 ounces of usable marijuana**. A registry identification cardholder and the designated primary caregiver of the cardholder may possess a combined total of up to 18 marijuana seedlings

RHODE ISLAND : possession / cultivation

- Limits the amount of marijuana that can be possessed and grown to up to **12 marijuana plants or 2.5 ounces of cultivated marijuana**. Primary caregivers may not possess an amount of marijuana in excess of **24 marijuana plants and five ounces of usable marijuana** for qualifying patients to whom he or she is connected through the Department's registration process.

VERMONT : possession / cultivation

- **No more than two mature marijuana plants, seven immature plants, and two ounces of usable marijuana** may be collectively possessed between the registered patient and the patient's registered caregiver. A marijuana plant shall be considered mature when male or female flower buds are readily observed on the plant by unaided visual examination. Until this sexual differentiation has taken place, a marijuana plant will be considered immature

WASHINGTON : possession / cultivation

- Patients (or their primary caregivers) may legally possess or cultivate **no more than a 60-day supply of marijuana**. The law does not establish a state-run patient registry.

GUIDELINES?: California as an example

- GUIDELINES FOR THE SECURITY AND NON-DIVERSION OF MARIJUANA GROWN FOR MEDICAL USE

GUIDELINES?: California as an example

- The possession, sale, cultivation, or transportation of marijuana is ordinarily a crime under California law [possession of marijuana is a misdemeanor.

GUIDELINES?: California as an example

- The Medical Board of California licenses, investigates, and disciplines California physicians.
- Although state law prohibits punishing a physician simply for recommending marijuana for treatment of a serious medical condition the Medical Board can and does take disciplinary action against physicians who fail to comply with accepted medical standards when recommending marijuana. In a May 13, 2004 press release, the Medical Board clarified that these accepted standards are the same ones that a reasonable and prudent physician would follow when recommending or approving any medication.
- They include the following:

GUIDELINES?: California as an example

- 1. Taking a history and conducting a good faith examination of the patient;
- 2. Developing a treatment plan with objectives;
- 3. Providing informed consent, including discussion of side effects;
- 4. Periodically reviewing the treatment's efficacy;
- 5. Consultations, as necessary; and
- 6. Keeping proper records supporting the decision to recommend the use of medical marijuana.

GUIDELINES?: California as an example

- Adopted in 1970, the Controlled Substances Act (CSA) established a federal regulatory system designed to combat recreational drug abuse by making it **unlawful to manufacture, distribute, dispense, or possess any controlled substance.**
- The CSA reflects the federal government's view that marijuana is a drug with **"no currently accepted medical use."**
- Accordingly, the manufacture, distribution, or possession of marijuana is a **federal criminal offense.**

GUIDELINES?: California as an example

- **The incongruity between federal and state law has given rise to understandable confusion, but no legal conflict exists merely because state law and federal law treat marijuana differently. Indeed, California's medical marijuana laws have been challenged unsuccessfully in court on the ground that they are preempted by the CSA.**

GUIDELINES?: California as an example

- Congress has provided that states are free to regulate in the area of controlled substances, including marijuana, provided that state law does not positively conflict with the CSA.
- **Neither Proposition 215, nor the MMP, conflict with the CSA because, in adopting these laws, California did not “legalize” medical marijuana, but instead exercised the state’s reserved powers to not punish certain marijuana offenses under state law when a physician has recommended its use to treat a serious medical condition.**

GUIDELINES?: California as an example

- Physician's Recommendation: Physicians **may not prescribe** marijuana because the federal Food and Drug Administration regulates prescription drugs and, under the CSA, marijuana is a Schedule I drug, meaning that it has no recognized medical use.
- Physicians may, however, lawfully issue a verbal or written recommendation under California law indicating that marijuana would be a beneficial treatment for a serious medical condition.

GUIDELINES?: California as an example

- **Compliance guidelines :**

1-Physician Recommendation: Patients must have a written or verbal recommendation for medical marijuana from a licensed physician.

2-State of California Medical Marijuana Identification Card: Under the MMP, qualified patients and their primary caregivers may voluntarily apply for a card issued by DPH identifying them as a person who is authorized to use, possess, or transport marijuana grown for medical purposes.

3-Proof of Qualified Patient Status: Although verbal recommendations are technically permitted under Proposition 215, patients should obtain and carry written proof of their physician recommendations to help them avoid arrest.