

THE MEDICAL MARIJUANA LAW IN PENNSYLVANIA

S. Scott Paist III, M.D., ABFM, FAAFP
Certified, American Society of Addictions Specialists
General Internal Medicine, Lancaster, PA



Editor's Note: On April 17, 2016 Governor Tom Wolfe signed Senate Bill 3 into law, thus initiating Pennsylvania's Medical Marijuana Program. Implementation of the program will take 18-24 months. According to the governor's website, the bill became law because "medical marijuana can assist patients suffering from serious medical conditions by alleviating pain and improving their quality of life." In fact, the medical uses of marijuana are quite controversial, and its benefits are especially unproven in regard to pain relief. In the following article, Dr. Scott Paist, our addictions specialist who has written about marijuana previously in this Journal,¹ provides a summary of the law and reflections on its assumptions and implications. (See *From the Editor's Desk* for additional comment.)

SENATE BILL 3:

"The General Assembly finds and declares as follows: Scientific evidence suggests that medical marijuana is one potential therapy that may mitigate suffering in some patients and also enhance quality of life."

"Certified medical use" is defined as "use as part of the treatment of the patient's serious medical condition." A "serious medical condition" as listed in the law is limited to the following:

- Cancer
- Positive status for human immunodeficiency virus of acquired immune deficiency syndrome
- Amyotrophic lateral sclerosis
- Parkinson's disease
- Multiple sclerosis
- "Damage to the nervous tissue of the spinal cord with objective neurological indication of intractable spasticity."
- Epilepsy
- Inflammatory bowel disease
- Neuropathies
- Huntington's disease
- Crohn's disease
- Post-traumatic stress disorder
- Intractable seizures
- Glaucoma
- Sickle cell anemia
- "Severe chronic or intractable pain of neuropathic origin or severe chronic or intractable pain in which conventional therapeutic intervention and opiate therapy is contraindicated or ineffective."
- Autism

HOW IT WORKS

A physician, CRNP, or PA who has completed a four-hour course and who has been certified by the

Commonwealth (see below) and who "...determines the patient is likely to receive therapeutic or palliative benefit from the use of medical marijuana," and that the patient has one of the above-listed conditions, may issue a certification to use medical marijuana. The patient (or caregiver) may then go to a "dispensary" where the medical marijuana will be dispensed. The dispensary obtains the marijuana from a separate "grower" who is licensed by the Commonwealth.

A "patient" is defined as an individual who:

- Is a resident of Pennsylvania;
- Has a serious medical condition (as listed above);
- If qualified, has registered and received an ID card.

A "caregiver" may be designated by a patient to receive medical marijuana on the patient's behalf. A "caregiver" may not represent more than five patients. A patient may designate up to two caregivers.

DOSAGE FORMS SPECIFIED IN THE LAW

- Pill
- Oil
- Topical gel, cream, or ointment
- "A form medically appropriate for administration by vaporization or nebulization, excluding dry leaf or plant form..."
- "It is unlawful to smoke medical marijuana ... or to incorporate medical marijuana into edible form."
- The form or dose of the medical marijuana is presumably specified by the practitioner.

PRACTITIONER REGISTRATION

To be eligible for inclusion in the registry:

- Physicians or other qualified practitioners must apply for registration.
- The Department "must determine that the physician is by training or experience qualified to treat a serious medical condition."

- The physician must have completed a four-hour training course to be developed by the Department.
- The language now switches from “physician” to “practitioner,” stating, “A practitioner may not hold a direct or economic interest in a medical marijuana organization.”
 - “A practitioner may not advertise ... services as a practitioner who can certify a patient to receive medical marijuana.”
 - The patient “must be under the practitioner’s continuing care for the serious medical condition.”

DEFINITION OF UNSAFE BLOOD LEVEL

“A patient may not operate or be in physical control of any of the following while under the influence with a blood content of more than 10 nanograms of active tetrahydrocannabinol (sic) per milliliter of blood in serum (sic):

- “Chemicals which require a permit issued by the federal government or a state government or by an agency of the federal or state government.
- “High voltage electricity or any other public utility.
- “A patient may not perform any duty at heights or in confined spaces including, but not limited to, mining while under the influence of medical marijuana.
- “A patient may be prohibited by an employer from performing any task which the employer deems life-threatening, to either the employee or any of the employees of the employer, while under the influence of medical marijuana. The prohibition shall not be deemed an adverse employment decision even if the prohibition results in financial harm for the patient.
- “A patient may be prohibited by an employer from performing any duty which could result in a public health or safety risk while under the influence of medical marijuana.”

COMMENTS

- The level specified in the law is twice that specified in California, Washington State, and Colorado and has no known scientific basis.
- Presumably, the law means to specify “tetrahydrocannabinol,” not “tetrahydrocannabinol.”
- The meaning of “per milliliter of blood in serum” is obscure.
- Blood levels of THC have little relation to levels of brain effect. A daily smoker may maintain a level of 35 ng/ml chronically

WHO CAN BE A GROWER/PROCESSOR

Growers/processors must have at least \$2,000,000 in capital, \$500,000 of which is deposited with a financial institution, and pay a fee of \$200,000 for a permit. Initially no more than 25 growers will be issued permits.

DISPENSARIES

- The Department may not initially issue permits to more than 50 dispensaries. Each dispensary may provide medical marijuana at no more than three separate locations.
- No more than five individual permits will be issued to one person. Thus, there might be 150 dispensary locations in the Commonwealth with up to 15 locations under the control of one individual.

DISCUSSION

Recent careful and thorough reviews of the medical literature on medical indications for cannabis have shown little indications for its use. An editorial² accompanying a recent review in JAMA³ states, “There is some evidence to support the use of marijuana for nausea and vomiting related to chemotherapy, specific pain syndromes, and spasticity from multiple sclerosis. However, for most other indications that qualify by state law for use of medical marijuana, such as hepatitis C, Crohn’s disease, Parkinson’s disease, or Tourette syndrome, the evidence supporting its use is of poor quality.

It is not clear how the authors of the Pennsylvania law arrived at what appears to be an arbitrary and certainly unscientific list of “serious medical conditions.” The list of activities proscribed under the law while “under the influence of medical marijuana” seems arbitrary and somewhat capricious. Driving under the influence is not mentioned. The law prohibits smoking or ingesting marijuana leaf but allows inhaling cannabis vapor (“vaping”) among other methods of use. Vaping is tantamount to smoking the burning plant, and no data exist on this usage, “medical” or otherwise. Ingestion by “nebulizer” is also allowed.

Finally, the five-part system (practitioners, patients, caregivers, growers, and dispensaries) is cumbersome and also appears to allow for considerable misuse and outright abuse. As yet, there is no mechanism in place for practitioners, growers or dispensaries to obtain the training and licensure needed to begin to grow and dispense medical marijuana in Pennsylvania. Perhaps areas for possible misuse will be addressed as licensure and training systems are clarified.

REFERENCES

1. Paist SS. Medical Marijuana: What do we know? J Lanc Gen Hosp. 2014 (3); 9: 85-88.
2. D’Souza CD. Medical Marijuana: Is the cart before the horse? JAMA. 2015;313(24):2431-2432. doi:10.1001/jama.2015.6407.
3. Hill KP. Medical marijuana for treatment of chronic pain and other medical and psychiatric problems. JAMA. 2015;313(24):2474-2483. doi:10.1001/jama.2015.6199.