Medical Marijuana and Related Legal Aspects
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INTRODUCTION
Over the years, medical marijuana (cannabis), derived from the leaves of the Cannabis sativa plant, has been the subject of continual controversy in terms of both its clinical use in state-sanctioned dispensaries and its place in public health policy. Today, the medical use of this illicit recreational drug has re-emerged as a timely, albeit polarizing, issue for clinical practitioners and P&T committee members, as well as for the public.

This article reviews the current use of medical marijuana in the U.S. and the implications of its use for health care professionals and P&T committee members.

LEGAL STATUS
References to marijuana have appeared in the medical literature throughout history. In the U.S., the drug’s medical use was curtailed in 1970, when the Controlled Substances Act listed marijuana as a Schedule I substance with no medical value and with a high potential for abuse. Before its restriction, marijuana was prescribed for numerous medical conditions, similar to those for which 18 states (and the District of Columbia) currently approve its use (Table 1).1–3

Despite the legal actions taken by these states, the federal government’s position regarding the use of medical marijuana remains clear. In June 2011, the Drug Enforcement Administration (DEA) denied a petition to reschedule marijuana and reiterat that there was no scientific or medical evidence to support such a move. The Department of Veterans Affairs corroborated this position by prohibiting the use of medical marijuana in its facilities. The federal government’s position was further clarified by the Department of Justice, which declared that the selling, cultivation, or distribution of marijuana is against federal law and that individuals engaging in these activities are subject to enforcement actions.4

Despite the federal government’s position, U.S. Attorney General Eric Holder announced in 2009 that legally pursuing people who were using medical marijuana was not a priority. However, he differentiated between illicit drug users and patients or caregivers who are abiding by state and local laws.5

The discrepancy between the positions of the DEA and the Attorney General has done little to help medical professionals navigate the complexities of state and federal laws. Regardless of marijuana’s legal status, the 2011 National Survey on Drug Use and Health (NSDUH) reported that approximately 18.1 million individuals 12 years of age or older had used the drug in the month prior to the survey.6

PHYSIOLOGICAL EFFECTS
As a growing number of states approve the use of marijuana for the treatment of medical conditions, practitioners will need to understand its effects on their patients. Short-term marijuana use may cause coordination disorders, impaired memory and judgment, and psychotic episodes. Long-term use has been associated with increased cardiovascular events, addiction, mental health disorders, and respiratory disorders similar to those associated with tobacco smoking. Studies are currently evaluating the relationship between marijuana and psychosis, especially in adolescents. The heavy early use of marijuana has been linked to an increased risk for the abuse of, and dependency on, other illicit drugs.7

Delta-9-tetrahydrocannabinol (THC) is primarily responsible for the physiological effects of marijuana. These effects can vary significantly, depending on the method of delivery. Inhalation is the most common method, delivering the highest levels of THC as the drug passes from the lungs into the bloodstream. Ingestion (e.g., eating the substance mixed in food) can delay the effects of THC for up to 3 hours, but it may also increase the length of time an individual experiences a “high.”8 The THC concentration in a particular sample of marijuana varies according to the plant’s source. In confiscated samples, the levels of THC increased from an average of 4% in the 1980s to an average of 10% in 2000.9

IMPACT ON MEDICAL PROFESSIONALS
Physicians
Public acceptance rather than clinical data has been the driving force behind the approval of medical marijuana in several states. In a survey of family physicians conducted in Colorado, for instance, only 46% of 520 respondents believed that
## Table 1 States With Approved Uses of Medical Marijuana

<table>
<thead>
<tr>
<th>State</th>
<th>Approved Uses</th>
<th>Method of Dispensing</th>
<th>Year Approved</th>
<th>Registry Required</th>
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</thead>
<tbody>
<tr>
<td>Alaska</td>
<td>Cachexia, cancer, chronic pain, epilepsy (and other disorders characterized by seizures), glaucoma, HIV/AIDS, MS (and other disorders characterized by muscle spasticity), and nausea.</td>
<td>Individual caregivers. No more than 1 ounce of usable marijuana may be in the possession of a caregiver or patient at one time. Patients can home-cultivate up to six plants, of which no more than three may be mature at one time.</td>
<td>1999</td>
<td>Mandatory</td>
</tr>
<tr>
<td>Arizona</td>
<td>Cancer, glaucoma, HIV/AIDS, hepatitis C, ALS, Crohn’s disease, Alzheimer’s disease, cachexia or wasting syndrome, severe and chronic pain, severe nausea, seizures (including epilepsy), and severe or persistent muscle spasms (including MS).</td>
<td>Individual caregivers or compassion centers. A single licensee may possess up to 2.5 ounces of usable marijuana for a 14-day supply. Home cultivation is allowed if patient lives more than 25 miles from nearest compassion center. Patient may have up to 12 plants in a locked facility.</td>
<td>2010</td>
<td>Mandatory</td>
</tr>
<tr>
<td>California</td>
<td>AIDS, anorexia, arthritis, cachexia, cancer, chronic pain, glaucoma, migraine, persistent muscle spasms (including spasms associated with MS), seizures (including seizures associated with epilepsy), severe nausea, and other chronic or persistent medical symptoms.</td>
<td>Individual caregivers or compassion centers. A single licensee may possess up to 8 ounces of dried marijuana and/or 6 mature or 12 immature plants at one time. A patient may register to possess a greater quantity under a physician’s recommendation.</td>
<td>1996</td>
<td>Voluntary</td>
</tr>
<tr>
<td>Colorado</td>
<td>Cancer, glaucoma, positive status for HIV/AIDS, cachexia, severe pain, severe nausea, seizures (including those that are characteristic of epilepsy), and persistent muscle spasms (including those that are characteristic of MS). Other conditions subject to approval by Colorado Board of Health.</td>
<td>Individual caregivers and dispensaries. A single licensee may possess no more than 2 ounces of usable marijuana and no more than six plants, only three of which may be mature. Dispensaries are not empowered by law; regulations have been enacted to control their operation.</td>
<td>2001</td>
<td>Mandatory</td>
</tr>
<tr>
<td>Connecticut</td>
<td>Cancer, glaucoma, positive status for HIV/AIDS, Parkinson’s disease, MS, damage to nervous tissue of spinal cord with objective neurological indication of intractable spasticity, epilepsy, cachexia, wasting syndrome, Crohn’s disease, PTSD, or any medical condition, medical treatment, or disease approved by Connecticut Department of Consumer Protection.</td>
<td>Individual caregiver or dispensary. A single licensee may possess an amount of usable marijuana for a 1-month supply. Home cultivation is illegal.</td>
<td>2012</td>
<td>Mandatory</td>
</tr>
<tr>
<td>Delaware</td>
<td>Approved for treatment of debilitating medical conditions (defined as cancer; HIV/AIDS; decompensated cirrhosis; ALS; Alzheimer’s disease; PTSD; or a medical condition that produces wasting syndrome, severe debilitating pain that has not responded to other treatments for more than 3 months or for which other treatments produced serious side effects, severe nausea, seizures, or severe and persistent muscle spasms).</td>
<td>Individual caregiver or compassion center. A single licensee may possess up to a maximum of 6 ounces of marijuana and may obtain a maximum of 3 ounces of marijuana only from a compassion center in a given 14-day period. Each patient may be registered at only a single compassion center.</td>
<td>2011</td>
<td>Mandatory</td>
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<tr>
<td>District of Columbia</td>
<td>HIV/AIDS; glaucoma; MS; cancer; and 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.</td>
<td>Individual caregiver or dispensary. A single licensee may possess an amount of usable marijuana for a 1-month supply. Home cultivation is illegal.</td>
<td>2010</td>
<td>Mandatory</td>
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### Table 1 States With Approved Uses of Medical Marijuana

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<tr>
<th>State</th>
<th>Approved Uses</th>
<th>License Type and Possession Limits</th>
<th>Year</th>
<th>Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hawaii</td>
<td>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), and severe and persistent muscle spasms (including those characteristic of MS or Crohn’s disease). Other conditions subject to approval by Hawaii Department of Health.</td>
<td>Individual caregiver only. A single licensee may possess only three mature plants, four immature plants, and 1 ounce of usable marijuana at a time.</td>
<td>2000</td>
<td>Mandatory</td>
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<tr>
<td>Maine</td>
<td>Cancer, glaucoma, HIV/AIDS, hepatitis C, ALS, Crohn’s disease, Alzheimer’s disease, nail–patella syndrome, chronic intractable pain, cachexia or wasting syndrome, severe nausea, seizures (epilepsy), severe and persistent muscle spasms, and MS.</td>
<td>Individual caregiver or compassion center. A single licensee may possess a maximum of 2.5 ounces of usable marijuana and six plants, of which only three may be mature.</td>
<td>1999</td>
<td>Mandatory</td>
</tr>
<tr>
<td>Massachusetts</td>
<td>Cancer, glaucoma, positive status for HIV/AIDS, hepatitis C, ALS, Crohn’s disease, Parkinson’s disease, MS, and other conditions as determined in writing by a qualifying patient’s physician.</td>
<td>Compassion center. A single licensee may possess up to a 60-day supply for personal use.</td>
<td>2012</td>
<td>Mandatory</td>
</tr>
<tr>
<td>Michigan</td>
<td>Approved for treatment of debilitating medical conditions (defined as cancer, glaucoma, HIV, AIDS, hepatitis C, ALS, Crohn’s disease, agitation of Alzheimer’s disease, nail–patella syndrome, cachexia or wasting syndrome, severe and chronic pain, severe nausea, seizures, epilepsy, muscle spasms, and MS).</td>
<td>Individual caregiver or self-cultivated only. A single licensee may possess a maximum of 2.5 ounces of usable marijuana. If the license is not registered to a caregiver, the patient may possess up to 12 plants in a locked facility.</td>
<td>2008</td>
<td>Mandatory</td>
</tr>
<tr>
<td>Montana</td>
<td>Cancer, glaucoma, or positive status for HIV/AIDS when the condition or disease results in symptoms that seriously and adversely affect the patient’s health status; cachexia or wasting syndrome; severe, chronic pain that is persistent pain of severe intensity that significantly interferes with daily activities as documented by the patient’s treating physician; intractable nausea or vomiting; epilepsy or intractable seizure disorder; MS; Crohn’s disease; painful peripheral neuropathy; a CNS disorder resulting in chronic, painful spasticity or muscle spasms; and admittance into hospice care.</td>
<td>Individual caregiver or self-cultivated. A single licensee may possess up to 12 seedlings (less than 12 inches), four mature plants, and 1 ounce of usable marijuana.</td>
<td>2004</td>
<td>Mandatory</td>
</tr>
<tr>
<td>Nevada</td>
<td>AIDS; cancer; glaucoma; and any medical condition or treatment of a medical condition that produces cachexia, persistent muscle spasms or seizures, severe nausea, or pain. Other conditions subject to approval by health division of Nevada Department of Human Resources.</td>
<td>Individual caregiver or self-cultivated. A single licensee may possess three mature plants, four immature plants, and 1 ounce of usable marijuana.</td>
<td>2001</td>
<td>Mandatory</td>
</tr>
<tr>
<td>New Jersey</td>
<td>Seizure disorders (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; ALS, MS, 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 New Jersey Department of Health and Senior Services.</td>
<td>Compassion center only. A single licensee must obtain a prescription from a physician for the amount of marijuana required. The maximum for a 30-day supply is 2 ounces.</td>
<td>2010</td>
<td>Mandatory</td>
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</tbody>
</table>
Table 1 States With Approved Uses of Medical Marijuana

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<th>License Type</th>
<th>Year</th>
<th>Approval Type</th>
</tr>
</thead>
<tbody>
<tr>
<td>New Mexico</td>
<td>Severe chronic pain, painful peripheral neuropathy, intractable nausea/vomiting, severe anorexia/cachexia, hepatitis C infection, Crohn’s disease, PTSD, ALS, cancer, glaucoma, MS, damage to nervous tissue of spinal cord with intractable spasticity, epilepsy, HIV/AIDS, and hospice patients.</td>
<td>Individual caregiver or self-cultivated only. A single licensee may possess a maximum of 6 ounces of usable marijuana, four mature plants, and 12 seedlings. A caregiver may provide for only four patients.</td>
<td>2007</td>
<td>Mandatory</td>
</tr>
<tr>
<td>Oregon</td>
<td>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 MS). Other conditions subject to approval by Health Division of Oregon Department of Human Services. PTSD was added in 2013.</td>
<td>Individual caregiver or self-cultivated only. A single licensee may possess a maximum of 24 ounces of usable marijuana and six seedlings. Between the caregiver and the patient, a maximum of 18 plants is allowed.</td>
<td>1998</td>
<td>Mandatory</td>
</tr>
<tr>
<td>Rhode Island</td>
<td>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); severe and persistent muscle spasms (including but not limited to those characteristic of MS or Crohn’s disease); or agitation of Alzheimer’s disease; or any other medical condition or its treatment approved by Rhode Island Department of Health.</td>
<td>Individual caregiver, compassion center, or self-cultivation. A single licensee may possess up to 2.5 ounces of usable marijuana and up to 12 plants. A caregiver may possess a maximum of 24 plants and 5 ounces of usable marijuana.</td>
<td>2006</td>
<td>Compassion centers in 2009</td>
</tr>
<tr>
<td>Vermont</td>
<td>Cancer, AIDS, positive status for HIV, MS, or 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, nausea, or seizures.</td>
<td>Individual caregiver, compassion center, or self-cultivation. Between a single patient and a caregiver, a maximum of 2 ounces of usable marijuana, two mature plants, and seven seedlings are permitted.</td>
<td>2004</td>
<td>Mandatory</td>
</tr>
<tr>
<td>Washington</td>
<td>Cachexia; cancer; HIV/AIDS; epilepsy; glaucoma; intractable pain (defined as pain unrelied by standard treatment or medications); and MS. Crohn’s disease, hepatitis C with debilitating nausea or intractable pain, diseases (including anorexia) that result in nausea, vomiting, wasting, appetite loss, cramping, seizures, muscle spasms, or spasticity when those conditions are unrelied by standard treatments or medications. Other conditions subject to approval by Washington Board of Health.</td>
<td>Individual caregiver or self-cultivated. Between a patient and a caregiver, there can be a 60-day supply, defined as 24 ounces of usable marijuana and 15 plants.</td>
<td>1998</td>
<td>None</td>
</tr>
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AIDS = acquired immunodeficiency syndrome; ALS = amyotrophic lateral sclerosis (Lou Gehrig’s disease); CNS = central nervous system; HIV = human immunodeficiency virus; MS = multiple sclerosis; PTSD = post-traumatic stress disorder.

Data from Medical Marijuana.org;¹ NORML, http://norml.org;² and ProCon.org.³
Before offering to help a patient acquire marijuana (a Schedule I controlled substance) for medical use, practitioners should be careful in making their decision, considering federal law and professional regulations, and should consult with legal experts. Advice from professional organizations may help clinicians address the legal and ethical aspects of medical marijuana use.14

Pharmacists

As the use of medical marijuana gains greater acceptance, it is likely that pharmacists will be called upon to counsel patients. Again, care must be taken to avoid the “aiding and abetting” of drug use. Several states have proposed that pharmacists be responsible for dispensing medical marijuana.

Although dispensing pharmacists might receive some legal protection from their individual state, they would be clearly violating federal laws concerning controlled substances and could possibly risk felony arrest. The American Society of Health System Pharmacists provides advice to pharmacists in this situation by including (1) information on relevant medical marijuana laws, regulations, and procedures; (2) a comprehensive database of clinical information about marijuana for use during counseling; and (3) a systematic method for obtaining patient medical histories that ensures the confidentiality of patient health data.15,16

Pharmacists must also be careful never to recommend a source of medical marijuana, provide specific instructions for the drug’s use, or obtain the drug for a patient’s use.

P&T Committees

The use of medical marijuana also has implications for P&T committees, such as the potential effect on credentialing, based on the organization’s prescribing policy. Affiliated entities that include a dispensary might look to P&T committees for guidance, policy assistance, or other administrative support regarding the dispensing of marijuana for medical use. Moreover, shared savings from changes in an organization’s clinical practices resulting from health reform–mandated market policies could find their way into P&T committee agendas related to medical marijuana.

Medical Facilities

As states debate the most effective ways to administer a medical marijuana program, hospitals and pharmacies are commonly mandated to be in charge of distribution. In view of the ambiguity in federal and state laws, this pivotal role places facilities in potential legal peril. Under these circumstances, intentional violation of the Controlled Substances Act could lead to fines or imprisonment for employers, closure of a facility, loss of DEA controlled-substances registration and facility licensure, and loss of federal health care funding.9,10

EMPLOYER WORKSITES

Currently, the marijuana laws in California, Massachusetts, Minnesota, Oregon, and Washington allow employers to restrict the use of medical marijuana on their premises or during working hours; other states remain silent on the issue. The federal government has been clear about the legal status of marijuana possession, but the legal consequences of using and becoming intoxicated by medical marijuana on a worksite are less certain.

These five states offer some legal protection to employees who are registered users of medical marijuana. The laws of Arizona, Connecticut, and Delaware have similar language, which prevents the results of pre-hiring drug tests to be used to discriminate against registry cardholders who test positive for marijuana use.17-20 However, if employing these individuals violates the requirements of the Drug-Free Workplace Act of 1988 for federal grantees or federal contractors, it would be permissible for employers not to extend an offer.

Arizona, Delaware, Maine, Michigan, and Rhode Island prohibit disciplinary action or discrimination against employees who are registered cardholders.27

Employees have tried to use the Americans With Disabilities Act (ADA) for legal protection, but these claims have failed.21 The ADA does not protect employees who use medical marijuana even if they are using it under the supervision of a doctor and are in compliance with state law. The Ninth Circuit Court of Appeals issued its opinion on May 22, 2012, in James v City of Costa Mesa.21 As long as marijuana is considered to be an illegal drug under federal law, its use is not protected by the ADA.
CONCLUSION

Just as the use of medical marijuana by health care practitioners is gaining public approval, the drug’s use is complicated by regulatory inconsistencies and ambiguities. The responsibilities of physicians who prescribe medical marijuana differ from those who prescribe traditional FDA-approved medications and could involve legal risks. Pharmacists, too, may be called on to counsel patients about medical marijuana use, guided by direction from state governments. In addition, as hospitals are often mandated to dispense medical marijuana, P&T committees may find themselves involved in the controversy.

Health care practitioners and P&T committees would be wise, therefore, to heed the old Latin principle of {caveat emptor}—“let the buyer beware”—when considering the emerging availability of marijuana for medical use.

REFERENCES