

Gaining Legal Access to Medical Marijuana in Alabama

Across the country, people are changing state laws to allow access to doctor-recommended medical marijuana. This fact sheet provides information about this growing trend to protect patients in need in Alabama and across the U.S.

Where Can Medical Marijuana be Legally Obtained in the U.S.?

Today, eleven states protect a patient's right to legally accessible marijuana for medical use: Alaska, California, Colorado, Hawaii, Maine, Montana, Nevada, Oregon, Rhode Island, Vermont, and Washington. Alabama is one of 36 states, including the District of Columbia, to have passed legislation officially recognizing marijuana's medicinal value.

How Are State Medical Marijuana Laws Changing?

Primarily through legislation and ballot measures, state-level criminal penalties for using medical marijuana are being removed. Most states did so through the ballot initiative process; Hawaii's law was enacted by the legislature and signed by the governor in 2000; Vermont's was enacted by the legislature and passed into law without the governor's signature in May 2004; and Rhode Island's was enacted by overriding the governor's veto in January 2006. State legislatures have a moral responsibility and the authority to change state laws to exempt seriously ill patients from state-level prosecution for marijuana possession and cultivation for medical use, and exempt from prosecution doctors who discuss or recommend medical marijuana. The constitutional amendment is another pathway to state-level medical marijuana policy reform. Colorado voters in 2000 approved a constitutional amendment recognizing the medicinal value of marijuana and removing state penalties for doctor-approved use.

Don't State Medical Marijuana Laws Conflict with Federal Law?

Yes, but the federal government has no authority to prevent states from enacting such laws. Even within the confines of federal law, states can enact reforms that have the practical effect of eliminating patients' fear of arrest and prosecution under state law. Neither one of the two medical marijuana cases decided by the U.S. Supreme Court (*Raich v. Gonzales*, 2005; *Oakland Cannabis Buyers' Cooperative v. Ashcroft*, 2001) in any way limits state authority to enact sensible and compassionate medical marijuana laws. In October 2003, *Walters v. Conant* (formerly *Conant v. McCaffrey*) upheld the communication from physician to patient as protected speech. Physicians have the right to speak and patients have the right to hear their doctors' honest recommendation as it relates to marijuana. To date, there have been no federal sanctions brought against any state that passed or considered passing medical marijuana legislation.

"The evidence in this record clearly shows that marijuana has been accepted as capable of relieving the distress of great numbers of very ill people, and doing so with safety under medical supervision. It would be unreasonable, arbitrary and capricious for DEA to continue to stand between those sufferers and the benefits of this substance in light of the evidence in this record. The administrative law judge recommends that the Administrator transfer marijuana from Schedule I to Schedule II."

— Ruling of DEA Administrative Law Judge Francis Young, Jr. at the conclusion of two years of DEA administrative hearings, September 6, 1988.

How Do State Medical Marijuana Laws Work?

Most state medical marijuana laws remove state-level criminal penalties on the use, possession and cultivation of some specified amount of marijuana by patients who possess a written or oral recommendation from their physician that he or she would benefit from medical marijuana. Patients diagnosed with any debilitating illness where the medical use of marijuana has been deemed appropriate and recommended by a physician are afforded legal protection. Conditions typically covered by the law include but are not limited to arthritis, cachexia, cancer, chronic pain, HIV/AIDS, epilepsy, migraine, and multiple sclerosis.

What Does the Scientific Community Recommend?

The medicinal value of marijuana is documented in rigorous research studies around the globe, including in studies by the authoritative Institute of Medicine, funded by the U.S. government. In fact, the federal government continues to supply seven patients with marijuana, based on its 1978 Investigational New Drug (IND) compassionate access program. Unfortunately, the federal government terminated IND and stopped accepting new patient applications in 1992 after it was flooded by applications from HIV/AIDS patients, which is why state medical marijuana laws are so important.

How Can We Gain Legal Access to Medical Marijuana in Alabama?

Alabama State Representative Laura Hall (D-19th District) has sponsored [The Compassionate Care Act](#), a measure that would allow seriously ill and dying patients who have a statement of support from their doctor to access medical marijuana for relief of their symptoms.

"[W]e concluded that there are some limited circumstances in which we recommend marijuana for medical uses. The accumulated data indicate a potential therapeutic value for cannabinoid drugs, particularly for symptoms such as pain relief, control of nausea and vomiting, and appetite stimulation."

— Opening remarks of Principal Investigator Dr. John Benson of the Institute of Medicine at the March 17, 1999 release of their report, *Marijuana and Medicine: Assessing the Science Base* (1999).

Why Does Alabama Need The Compassionate Care Act?

Sick and terminally ill patients in Alabama should no longer be subjected to fear of arrest for using medicine that has been proven to help them, and is being safely used by thousands of others elsewhere. The medical benefits of marijuana are known and it has been proven to safely alleviate debilitating medical conditions such as cancer, HIV/AIDS, glaucoma, multiple sclerosis, epilepsy, and chronic pain. The American Cancer Society estimates that there will be over 24,000 new cancer cases in Alabama in

2006 alone, and over 10,000 cancer deaths.ⁱ The Alabama Department of Public Health reported in September of 2004 that almost 10,000 Alabama residents are living with HIV/AIDS, the majority of whom are between the ages of 24 and 45.ⁱⁱ Many of these patients are fighting a life-or-death struggle, and their suffering is devastating for them and their loved ones. Not all patients living with these conditions will need medical marijuana, but it is vitally important that doctors feel unfettered to make this option available to patients who would benefit from treatment, and for patients not to face arrest and criminal prosecution simply for taking their medicine.

How Extensive is the Support Base in Alabama for Medical Marijuana?

Support for legal access to marijuana in Alabama is overwhelming. A 2004 poll by *The Mobile-Register* and the University of South Alabama Polling Group found that 76% of Alabama residents think adults should be allowed to use marijuana for medical purposes if prescribed by a doctor.ⁱⁱⁱ Nationally, a research survey conducted in 2005 by the influential American Association of Retired Persons (AARP) found that 72% of people 45 years of age and older agree that adults should be allowed legally to use marijuana for medical purposes if a physician recommends it.^{iv} Moreover, a 2002 *Time Magazine* poll found that 80% of U.S. citizens support the use of marijuana for medical purposes.^v

Does Allowing the Medical Use of Marijuana Send the Wrong Message to Our Children?

In states allowing medicinal use of marijuana, recreational use among youth has not increased. In fact, a recent study of trends in teen marijuana use in states with medical marijuana laws found that every state has actually experienced an overall decline in youth marijuana use since their respective laws were enacted.^{vi} According to the California Student Survey, since the passage of medical marijuana legislation in California use among 11th graders dropped by 21%; use among 9th graders dropped 44%; and use among 7th graders dropped 34%.^{vii} These findings strongly indicate that medical marijuana laws actually contribute to a *decrease* in marijuana use amongst young people.

Don't Other Medications Work Just As Well?

Marinol, an oral medication currently available by prescription that contains synthesized versions of many of marijuana's component chemical compounds, is not a viable option for many patients. Research has shown that Marinol is often poorly absorbed, and patients complain the dosage is hard to monitor and control. Marinol is also more psychoactive than marijuana causing troubling levels of intoxication for many patients. For some patients suffering from symptoms of cancer, HIV/AIDS, and other serious diseases, only marijuana offers relief and significantly improves their quality of life. For many patients, marijuana also has fewer side effects than other heavier pain and nausea medications.

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www.drugpolicy.org

ⁱ American Cancer Society, "Estimated New Cancer Cases for Selected Cancer Sites by State, US, 2005," http://www.cancer.org/downloads/stt/Estimated_Cancer_Deaths_for_Selected_Cancer_Sites_by_State_US_2005.pdf (2005).

ⁱⁱ Division of HIV/AIDS Prevention and Control, "Integrated Epidemiologic Profile: HIV/AIDS Prevention and Care 2003," Alabama Department of Public Health. (September 2004).

ⁱⁱⁱ Monique Curet, "Poll: Majority Supports Medical Marijuana Use," *The Mobile-Register*, 4 July 2004.

^{iv} *AARP The Magazine*, "Older Americans' Attitudes on Medical Marijuana," March/April 2005.

^v Joel Stein, "The New Politics of Pot," *Time Magazine*, 27 October 2002.

^{vi} Karen O'Keefe and Mitch Earlywine, "Marijuana Use by Young People: The Impact of State Medical Marijuana Laws," <http://www.mpp.org/pdf/2005TeenUseReport.pdf>

^{vii} California State Attorney General, "10th Biennial California Student Survey Highlights," State of California, Department of Justice. (2004).