Georgia C.A.R.E.

The Georgia Campaign for Access, Reform & Education

A Guide to Enacting Medical Marijuana in Georgia

Campaign for

Access to medical cannabis

Reform of marijuana laws

Education of public, media & lawmakers

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A Guide to Enacting Medical Marijuana Legislation in Georgia

Introduction

The Georgia Campaign for Access, Reform & Education (Georgia C.A.R.E.) mission is to educate citizens, elected officials and the media concerning the impact marijuana (cannabis) laws have on society; and to provide comprehensive draft legislation to help guide our legislators in decision making concerning marijuana law reform.

We oppose criminal penalties against those who may benefit from medical marijuana. We advocate for compassionate medical use of marijuana and a regulated system that allows medical doctors to recommend therapeutic marijuana to their patients with disease and medical conditions without the threat of criminal or professional repercussions and allows for a supply of legally available marijuana to patients without the threat of arrest, prosecution and incarceration.

Therefore, Georgia C.A.R.E. offers the following information that will help to guide the reform of current policies.

Background on Medical Cannabis Therapeutics

Varieties of the Cannabis plant, also know as marijuana, have been safely used by mankind for thousands of years. In the early 20th century cannabis was legal in America and used in various preparations as a medicine and for its fibers and hundreds of other products – it's one of the most versatile natural products in the world.

Today, in 18 states and the District of Columbia citizens have access to legal medical marijuana by doctor recommendations. More than 100 million people or 34% of Americans live in states with medical marijuana. Many other states are introducing legislation to allow legal access. The issue is being debated nationwide.

Recent national polls indicate 70-80% of those surveyed support allowing medical marijuana and removing criminal sanctions.

Cannabis Therapeutics in Georgia

Georgia was once a leader in research into Cannabis Therapeutics. In 1980, the Georgia General Assembly unanimously passed a medical marijuana research act, (Controlled Substance Therapeutic Research Act – Code 43-34-120) becoming one of the first states to recognize the medical benefits of marijuana. With support of Lt. Gov. Zell Miller, House Speaker Tom Murphy, Rep. Virlyn Smith and Governor George Busbee, this landmark legislation opened the doors to therapeutic cannabis. More than 100 patients

participated in this program until the federal government restricted the program by cutting off the supply of the medicine. The research was conducted by Emory University.

The landmark legislation stated: "(Studies) indicate that marijuana and certain of its derivatives possess valuable and in some cases, unique therapeutic properties, including the ability to relieve nausea and vomiting which routinely accompany chemotherapy and irradiation used to treat cancer patients." It also cited the benefit in reducing intraocular pressure in glaucoma patients.

The state law relied upon federal cooperation to supply the prescribed cannabis. When the federal government ended the supply of medical marijuana to the states, Georgia was left with no alternatives for doctors and patients since the act did not prescribe for a local supply of the medicine.

Legislative Intent

Findings of the Georgia General Assembly 1980 (Controlled Substance Therapeutic Research Act – Code 43-34-120)

(a) The General Assembly finds and declares that the potential medicinal value of marijuana has received insufficient study due to a lack of financial incentives for the undertaking of appropriate research by private drug manufacturing concerns. Individual physicians cannot feasibly utilize marijuana in clinical trials because of federal governmental controls which involve expensive, time-consuming approval and monitoring procedures.
(b) The General Assembly further finds and declares that limited studies throughout the nation indicate that marijuana and certain of its derivatives possess valuable and, in some cases, unique therapeutic properties, including the ability to relieve nausea and vomiting which routinely accompany chemotherapy and irradiation used to treat cancer patients. Marijuana also may be effective in reducing intraocular pressure in glaucoma patients who do not respond well to conventional medications.
(c) The General Assembly further finds and declares that, in enabling individual physicians and their patients to participate in a state-sponsored program for the investigational use of marijuana and its derivatives, qualified physicians and surgeons throughout the state will be able to study the benefits of the drug in a controlled clinical setting, and additional knowledge will be gained with respect to dosage and effects.
(d) It is the intent of the General Assembly in enacting this article to permit research into the therapeutic applications of marijuana and its derivatives in cancer and glaucoma patients. This would allow qualified physicians approved by the Patient Qualification Review Board created by Code Section 43-34-124 to provide the drug on a compassionate basis to seriously ill persons suffering from the severe side effects of chemotherapy or radiation treatment and to persons suffering from glaucoma who are not responding to conventional treatment, which persons would otherwise have no lawful access to it. It is the further intent of the General Assembly to facilitate clinical trials of marijuana and its derivatives, particularly with respect to

persons suffering from cancer and glaucoma who would be benefited by use of the drug.
(e) This article is limited to clinical trials and research into therapeutic applications of marijuana only for use in treating glaucoma and in treating the side effects of chemotherapeutic agents and radiation and should not be construed as either encouraging or sanctioning the social use of marijuana. Nothing in this article shall be construed to encourage the use of marijuana in lieu of or in conjunction with other accepted medical treatment, but only as an adjunct to such accepted medical treatment.

Recent legislation

On August 1, 2013 Illinois became the 20th state (District of Columbia) to legalize medical marijuana protecting the rights of patients whose doctors recommend medical marijuana. Each state has debated and carefully drafted legislation suitable for their state. Legislation is pending in many other states. Public support for medical marijuana is at an all time high.

Is Marijuana relatively safe as a medicine?

In 1988, after review of the evidence, a Drug Enforcement Administration Law Judge, Francis Young concluded:

"In strict medical terms marijuana is far safer than many foods we commonly consume. For example, eating 10 raw potatoes can result in a toxic response. By comparison, it is physically impossible to eat enough marijuana to induce death. **Marijuana in its natural form is one of the safest therapeutically active substances known to man. By any measure of rational analysis marijuana can be safely used within the supervised routine of medical care."**

Source: US Department of Justice, Drug Enforcement Agency, "In the Matter of Marijuana Rescheduling Petition," [Docket #86-22], (September 6, 1988), p. 57.

Modernizing Georgia's Medical Marijuana Law

The previous legislation (GA Code 43-34-120) was limited to therapeutic research for medical conditions of cancer therapy and glaucoma only where traditional treatments were not effective. It was also limited to rolled cigarettes for smoking verses the edible products available today.

Four key principles for effective Georgia medical marijuana laws

In order for Georgia law to provide effective protection for seriously ill people who engage in the medical use of marijuana, a state law must:

1. Define what is a legitimate medical use of marijuana by requiring a person who seeks legal protection to (a) have a medical condition that is sufficiently serious or debilitating, and (b) have the approval of his or her medical practitioner;

2. Avoid provisions that would require physicians or government employees to violate federal law in order for patients to legally use medical marijuana;

3. Provide at least one of the following means of obtaining marijuana, preferably all three: (a) permit patients to cultivate their own marijuana; (b) permit primary caregivers to cultivate marijuana on behalf of patients; and (c) authorize nongovernmental organizations to cultivate and distribute marijuana to patients and their primary caregivers.

4. Implement a series of sensible restrictions, such as prohibiting patients and providers from possessing large quantities of marijuana, prohibiting driving while under the influence of marijuana, and so forth.

Model State Legislation and Federal Law

Although the U.S. Supreme Court ruled on June 6, 2005 (*Gonzales v. Raich*) that the federal government can prosecute patients in states that removed their criminal penalties for the medical use of marijuana, the court did not question a state's ability to allow patients to grow, possess, and use medical marijuana under state law.

Indeed, the medical marijuana laws passed by voter initiatives in ten states and by six legislatures since 1996 continue to provide effective legal protection for patients and their primary caregivers because they are carefully worded. The model bill is based on those laws — primarily the Rhode Island law, because it is one of the more recent and most comprehensive medical marijuana laws that received majority support among state legislators.

Of course, the model bill only provides protection against arrest and prosecution by state or local authorities. State laws cannot offer protection against the possibility of arrest and prosecution by federal authorities. Even so, because 99% of all marijuana arrests are made by state and local — not federal — officials, properly worded state laws can effectively protect 99 out of every 100 medical marijuana users who would otherwise face prosecution at the state level.

In truth, changing state law is the key to protecting medical marijuana patients from arrest, as there has not been one documented case where a patient has been convicted

in a federal court for a small quantity of marijuana in the 16 states that have effective medical marijuana laws. In addition, in June 2011, the U.S. Deputy Attorney General James Cole wrote a memo to U.S. prosecutors advising against targeting "individuals with cancer or other serious illnesses who use marijuana as part of a recommended treatment regimen consistent with applicable state law."

Model medical marijuana legislation would create a limited exception to a state's criminal and civil laws to permit the doctor-advised medical use of marijuana by patients with serious medical conditions.

A patient would be protected from arrest if his or her physician certifies, in writing, that the patient has a specified debilitating medical condition and that the patient would receive therapeutic benefit from medical marijuana. The patient would send a copy of the written certification to the state department of health, and the department would issue an ID card after verifying the information. Police officers could verify an ID card's validity with the department.

As long as the patient is in compliance with the law, there would be no arrest. Patients would be allowed to possess up to six ounces of marijuana and to cultivate up to 12 plants for their medical use. Six ounces is less than the federal government has determined is a one-month supply for patients in the Compassionate Investigational New Drug Program. Twelve plants mirrors the limits of two of the most recent medical marijuana laws — those passed in Rhode Island and Michigan — which are designed to ensure that the patient has an adequate supply of dried usable marijuana. Both limits are conservative and are significantly less than the 24 ounces and 15 plants that the Washington State Department of Health determined constituted an adequate 60-day supply in October 2008. All cultivation would have to occur in an enclosed, locked facility. Many patients are unable to cultivate their own supply, so the legislation allows them to designate a caregiver who would also receive an ID card. Each caregiver may assist no more than five qualifying patients.

The legislation would also allow for the state-regulated, non-profit distribution of medical marijuana. The department of health would issue registration certificates to qualified applicants, who would have to abide by the rules on security, recordkeeping, and oversight provided for by the model medical marijuana legislation, in addition to any additional rules that the department may develop. All dispensaries would be subject to inspection.
It is important that the law provide for both caregivers and dispensaries, since patients in rural areas are unlikely to have access to dispensaries, and because many low-income patients would not be able to afford medical marijuana at dispensaries. In addition, very ill patients would need a caregiver to pick up their medicine for them.

The bill would also provide a medical necessity affirmative defense that patients can raise in court if they can prove they needed more marijuana to maintain a steady supply or if they did not have ID cards at the time of their arrest. This is an important provision,

as some legitimate patients will not register because their doctors will not sign a written certification due to an unwarranted fear of federal repercussions.

The bill maintains common sense restrictions on the medical use of marijuana, including prohibitions on public use of marijuana and driving under the influence of marijuana. Employers are not required to allow patients to be impaired at work or to allow the possession of marijuana at a workplace. Insurance providers would not have to cover medical marijuana.

Georgia: Reforming Existing Legislation

(Controlled Substance Therapeutic Research Act – Code 43-34-120)

In lieu of adopting comprehensive model legislation similar to other states, Georgia should consider legislation allow the continuation of the existing therapeutic research program. To accomplish this, current legislation should be revised to;

1. Expand the medical conditions for which marijuana can be recommended;
2. Allow for the state, through Emory University or other entities, to grow and dispense the medicine to the doctors and/or patients
3. Allow the continuation of the therapeutic research program

Conclusion:

It is time for Georgia to begin an open public dialogue on the medical marijuana issue. This report is designed to begin the dialogue. Public acceptance to medical marijuana is at an all time high. Twenty (20) states have now removed the criminality from the use of marijuana for medical purposes.

Georgia C.A.R.E. is seeking legislators to sponsors to draft and file compassionate medical marijuana laws that will help to ease the suffering of seriously ill patients and remove the criminal penalties associated with the use of cannabis as a medicine.

We submit this report in the name of compassion and justice – Because we C.A.R.E.

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