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## **The Vermont Legislative Research Shop**

### **The Legalization of Marijuana for Medical Use**

There is currently a battle between state laws and federal regulations concerning the medical use of marijuana. Nine states have laws legalizing medical marijuana, and many others, including Vermont have pending legislation concerning the legalization of marijuana for medical purposes; while federal law classifies marijuana as a Schedule I drug barring its use for medical purposes. The Supreme Court has ruled in favor of the federal government in this conflict, leaving medical marijuana illegal in the entire United States.

#### **The Supreme Court**

In 2001, the Supreme Court unanimously decided in *United States v. Oakland Cannabis Buyers' Cooperative* (No. 00-151 [2001]) that the use of marijuana for medical purposes violates the Controlled Substances Act of 1970. This Act bans the manufacture and distribution of marijuana and classifies marijuana as a Schedule I drug, which is the most restrictive regulation of an illegal drug. One of the criteria for being classified as a Schedule I drug is that there is no medical use for it; thus, the current law, as written, does not recognize any medical use for marijuana (Werner 2001).

#### **The Federal Government**

The Federal Government recently approved clinical trials for scientists at the University of California's Center for Medicinal Cannabis Research to determine whether medical marijuana can help patients who are HIV-infected and patients with multiple sclerosis by easing pain or treating nausea. The Federal Government has even agreed to supply the marijuana. The National Institute of Drug Abuse has the only legal source of marijuana in the United States; they grow it at the University of Mississippi in Oxford, Mississippi (Eggert 2002).

#### **The States**

Currently nine states have laws legalizing the use of marijuana for medicinal uses (See Figure 1). Every state, with the exception of Hawaii, passed these laws through the initiative process. Although they vary slightly, most of the laws protect the use of marijuana for the following illnesses: cachexia, cancer, chronic pain, chronic nervous system disorders, epilepsy, glaucoma, HIV or AIDS, and multiple sclerosis.

Alaska and Hawaii established laws that require patients seeking protection under the law to enroll in *mandatory* state registry programs. Those not enrolled may not be protected in the courts by arguments of medical necessity. Colorado, Nevada, and Oregon laws establish *optional* state registry programs. Any person wishing to be protected by the courts must enroll. Those choosing not to enroll in the program are not provided with that protection, but are allowed to argue an “affirmative defense of medical necessity.” Maine and California legislation is similar in that both provide patients with legal protection upon a doctor’s oral or written recommendation that marijuana use might benefit a patient’s condition. Washington state law requires that patients possess “valid documentation” that medical benefits may outweigh any health risks. Arizona’s law was written with the intent to allow doctors to prescribe marijuana as well as other Schedule 1 narcotics. As federal law prohibits doctors from prescribing these narcotics, few doctors have made prescriptions to their patients to use marijuana (National Organization for the Reform of Marijuana Laws 2001).

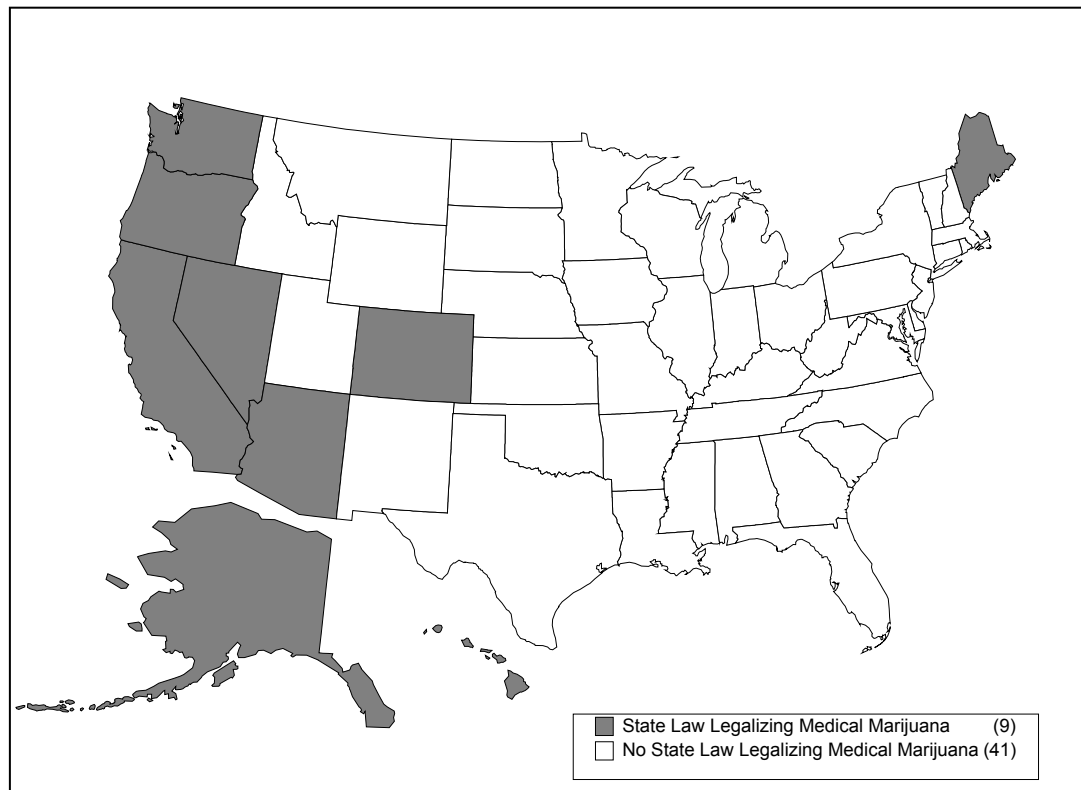


Figure 1: States with laws legalizing medical marijuana.  
Source: National Organization for the Reform of Marijuana Laws 2001.

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## Canada

In 2000, Canada made changes to their marijuana laws to legalize the use of marijuana for medicinal purposes. This policy change was motivated by a court ruling against a section of Canada’s Controlled Drugs and Substances Act. That section of the act had allowed the Minister

of Health to give broad based exemptions to the law, without any transparency or defined guidelines for what constitutes medical necessity. Following the court ruling, Health Canada developed a regulatory process for the use of medicinal marijuana. This process functions similar to the laws of Alaska and Hawaii where those seeking to use marijuana therapy must register with a state medical organization (Health Canada 2001).

### **The Medical Community**

In January 1997, the Office of National Drug Control Policy (ONDCP) commissioned the Institute of Medicine, a congressionally chartered medical organization, to serve as a mediator between those who dismiss medical marijuana use and others who have deemed it as a cure-all drug (Institute of Medicine 1999). It has been deemed by the Institute of Medicine that marijuana's benefits have been limited to primarily symptom relief, and alternatives in medicine have been proven to be more effective (Annas 1997). The Institute of Medicine found only weak support for marijuana's effectiveness in treating the symptoms of glaucoma, multiple sclerosis, migraines, or movement disorders, which include Parkinson's and Huntington's disease (Institute of Medicine 1999).

Tetrahydrocannabinol, or THC, the active ingredient in marijuana is, however, currently available in a pill form called Marinol. Marinol has been approved for the nausea brought on by chemotherapy and for wasting associated with AIDS (New England Journal of Medicine 1996). The cannabinoids found in Marinol have been proved to be successful where alternative medications have failed (Institute of Medicine 1999). One argument against this form of THC intake is that 3 to 10 percent of patients who are prescribed the drug suffer from abdominal pain, nausea and vomiting, and cannot keep the pill down (Schaffer Library of Drug Policy 1994). THC's usage in pain treatment remains controversial due to the fact that human studies remain inconclusive.

Another chemical found in marijuana, Cannabidiol has been deemed by the National Institute of Health as a drug that could potentially be capable of protecting individuals from brain damage caused by strokes. The research, however, has indicated that smoking marijuana will most likely not provide an adequate dose of the compound (Wozincki 1999).

The IOM noted that there are many promising prospects for marijuana drug development. Research has indicated that there are a variety of cellular and brain pathways through which therapeutic drugs could act on cannabinoid receptor systems, thus creating an effective medicinal use for the drug (Institute of Medicine 1999).

Currently, the American Medical Association's position regarding medical marijuana is that they believe there needs to be more studies conducted regarding the overall medical benefit of marijuana (O'Connor 1999).

See a [summary of the 1999 Institute of Medicine report](#), in the Journal of the American Medical Association v.57 n.6, June 2000, for more information.

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