



## ISSUE NUMBER 6

(Proposed by Petition of the People)

# Medical marijuana amendment

**POPULAR NAME:** The Arkansas Medical Marijuana Amendment of 2016

**BALLOT TITLE:** An amendment to the Arkansas Constitution making the medical use of marijuana legal under state law, but acknowledging that marijuana use, possession, and distribution for any purpose remain illegal under federal law; establishing a system for the cultivation, acquisition, and distribution of marijuana for qualifying patients through licensed medical marijuana dispensaries and cultivation facilities and granting those dispensaries and facilities limited immunity; providing that qualifying patients, as well as dispensary and cultivation facility agents, shall not be subject to criminal or civil penalties or other forms of discrimination for engaging in or assisting with the patients' medical use of marijuana; requiring that in order to become a qualifying patient, a person submit to the state a written certification from a physician licensed in the state that he or she is suffering from a qualifying medical condition; establishing an initial list of qualifying medical conditions; directing the Department of Health to establish rules related to the processing of applications for registry identification cards and the addition of qualifying medical conditions if such additions will enable patients to derive therapeutic benefit from the medical use of marijuana; directing the Alcoholic Beverage Control Division to establish rules related to the operations of dispensaries and cultivation facilities; establishing a Medical Marijuana Commission of five members, two appointed by the president pro tempore of the Senate, two appointed by the speaker of the House of Representatives, and one appointed by the governor; providing that the Medical

(continued on page 34)

**\*being challenged in court**

## QUICK LOOK: What does your vote mean?

**FOR:** A FOR vote means you are in favor of changing the Arkansas Constitution to make the medical use of marijuana legal under Arkansas law and establishing a system for the cultivation, acquisition and distribution of marijuana for medical purposes.

**AGAINST:** An AGAINST vote means you are not in favor of changing the Arkansas Constitution to make the medical use of marijuana legal under Arkansas law and establishing a system for the cultivation, acquisition and distribution of marijuana for medical purposes.

The following statements are examples of what supporters and opponents have made public either in media statements, campaign literature, on websites or in interviews with Public Policy Center staff. The University of Arkansas System Division of Agriculture does not endorse or validate these statements.

## What do supporters say?

- Polls indicate that over 80 percent of Arkansans support patients being able to use medical marijuana when prescribed by a physician.
- This proposal doesn't include a provision allowing patients to grow their own marijuana if they don't live near a dispensary. It's a tightly controlled system.
- Many people know somebody who has been sick and used marijuana to help with their suffering.
- New jobs would be created – somebody has to build the dispensaries, work in them and supply them with goods.
- This proposal guarantees that different people own the dispensaries and growing facilities. A for-profit system is necessary for anyone to be able to afford starting a dispensary or cultivation facility.

## What do opponents say?

- The Arkansas Department of Health says there are no scientific evaluations of the dosage and safety of marijuana varieties and preparations. Safe, effective and reproducible treatment options will only come from clinical studies of defined preparations with known composition. A move to simply make marijuana legal in medical circumstances will not accomplish this.
- There are Food and Drug Administration-approved treatment alternatives for all the medical conditions proposed to be treated with marijuana.
- This is a brazen move funded by the alcohol industry to build an Arkansas marijuana monopoly.
- It's written so broadly that virtually any healthy adult with pain or nausea will be able to finagle a way to use marijuana. There won't be any prescriptions from a doctor – just a note. No pharmacies will dispense it, and no one will regulate the content or dosage.
- It will create a hardship for business owners to maintain a drug-free workplace due to the numerous safe guards built into the amendment that protect the user interests over the interests of the employer.

(continued from page 33)

Marijuana Commission shall administer and regulate the licensing of dispensaries and cultivation facilities; providing that there shall be at least 20 but not more than 40 dispensary licenses issued and that there shall be at least four but not more than eight cultivation facility licenses issued; setting initial maximum application fees for dispensaries and cultivation facilities; establishing qualifications for registry identification cards; establishing standards to ensure that qualifying patient registration information is treated as confidential; directing the Department of Health to provide the General Assembly annual quantitative reports about the medical marijuana program; setting certain limitations on the use of medical marijuana by qualifying patients; establishing an affirmative defense for the medical use of marijuana; establishing registration and operation requirements for dispensaries and cultivation facilities; setting limits on the amount of marijuana a dispensary may cultivate and the amount of marijuana a dispensary may dispense to a qualifying patient; providing that the Medical Marijuana Commission shall determine the amount of marijuana a cultivation facility may cultivate; prohibiting certain conduct by and imposing certain conditions and requirements on physicians, dispensaries, dispensary and cultivation facility agents, and qualifying patients; establishing a list of felony offenses which preclude certain types of participation in the medical marijuana program; providing that the sale of usable marijuana is subject to all state and local sales taxes; providing that the state sales tax revenue shall be distributed 5% to the Department of Health, 2% to the Alcoholic Beverage Control Administration Division, 2% to the Alcoholic Beverage Control Enforcement Division, 1% to the Medical Marijuana Commission, 10% to the Skills Development Fund, 50% to the Vocational and Technical Training Special Revenue Fund, and 30% to the General Revenue Fund; and permitting the



General Assembly by two-thirds vote to amend sections of the amendment, except that the General Assembly may not amend the sections legalizing the medical use of marijuana and setting the number of dispensaries or cultivation facilities allowed.

### **Who is the sponsor of this amendment?**

Arkansans United for Medical Marijuana

### **What is being proposed?**

This amendment includes several components. If approved by voters, this amendment would:

1. Make the regulated medical use of marijuana legal under Arkansas state law, while recognizing the drug remains illegal under federal law.
2. Establish a system for growing, acquiring and distributing marijuana for medical purposes.
3. Identify medical conditions that qualify a person for using medical marijuana.
4. Protect qualified patients, caregivers, growers, providers and doctors from arrest, prosecution, penalty or discrimination under Arkansas law. It does not offer protection from federal law.
5. Direct the state Department of Health to establish rules related to medical access of marijuana and the Alcoholic Beverage Control Commission to establish rules related to growing and selling marijuana for medical purposes.
6. Establish the Medical Marijuana Commission to administer and regulate the licensing of cultivation and dispensary facilities.
7. Allow cities and counties to enact zoning regulations

that guide where dispensaries and cultivation facilities may locate, providing that the regulations are the same as those for a licensed pharmacy.

8. Allow cities and counties to prohibit dispensaries and cultivation facilities only if approved by voters in a local election.
9. Apply state and local taxes to the sale of medical marijuana and require that state tax revenues be used to offset the state's cost of administering the law and be distributed to various state workforce and education programs.
10. Prohibit anyone other than a licensed dispensary or cultivation facility from growing marijuana for medical purposes.
11. Permit legislators to change some sections of the amendment at a later date with a two-thirds vote. Sections legalizing medical use of marijuana and the number of dispensaries and cultivation facilities could not be changed.

### **Who would be allowed to use medical marijuana under this proposed amendment?**

A person whose doctor has certified that they suffer from a qualifying medical condition and would benefit from the use of medical marijuana, and has received a Registry Identification Card from the Arkansas Department of Health.

Qualifying patients under the age of 18 would be required to have written permission from their parent, guardian or legal custodian to receive a Registry Identification Card. The guardian would be responsible for acquiring the marijuana and overseeing its use by the child.

A person could not obtain or use medical marijuana under this law without a Registry Identification Card. The cards expire in one year, or at an earlier date if specified by the patient's physician.

### **What qualifies as a medical condition under this amendment?**

The proposed law defines three categories of qualifying medical conditions.

The first category includes specific ailments. The list includes cancer, glaucoma, positive status for human immunodeficiency virus (HIV)/acquired immune deficiency syndrome (AIDS), hepatitis C, amyotrophic lateral sclerosis (ALS), Tourette's syndrome, Crohn's disease, ulcerative colitis, post-traumatic stress disorder (PTSD), severe arthritis, fibromyalgia and Alzheimer's disease.

The second category is defined as “A chronic or debilitating disease or medical condition or its treatment that produces one or more of the following: cachexia or wasting syndrome; peripheral neuropathy; intractable pain, which is pain that has not responded to ordinary medications, treatment or surgical measures for more than 6 months; severe nausea; seizures, including without limitation those characteristic of epilepsy; or severe and persistent muscle spasms, including without limitation those characteristic of multiple sclerosis.”

Third, the proposed law authorizes the Arkansas Department of Health to approve other medical conditions or treatments as qualifying conditions after public notice and a public hearing. Petitions from the public to add medical conditions would be considered by the Department of Health in the same way.

### **How would people obtain medical marijuana under this amendment?**

There are two ways a person with a Registry Identification Card could obtain marijuana under this proposal.

- Qualified users could buy marijuana from dispensaries licensed by the Medical Marijuana Commission that would be created with the passage of this amendment.
- Qualified users could name a person as their “caregiver” and this person could obtain marijuana from the dispensary. A person convicted of a felony involving violence or the violation of controlled-substance laws within the past 10 years could not serve as a caregiver.

### **How much marijuana are we talking about?**

A dispensary could dispense no more than 2.5 ounces of marijuana to a qualifying patient or designated caregiver in a 14-day period.



Dispensaries could grow and possess 50 mature cannabis plants at any one time plus seedlings.

Cultivation facilities could grow and possess marijuana in an amount determined by the Medical Marijuana Commission and state Department of Health.

### **Could people use medical marijuana in public?**

No. The proposed law bans the use and possession of medical marijuana in public places, schools, daycares, colleges, community or recreation centers, on public transportation, in drug and alcohol treatment facilities, and in correctional facilities. The proposed law would also forbid driving a motor vehicle, aircraft or watercraft under the influence of medical marijuana.

### **How many dispensaries and growing facilities would be allowed?**

The amendment requires there be at least 20 but not more than 40 dispensary licenses issued and that there shall be at least four but not more than eight cultivation facility licenses issued. No more than four dispensaries are permitted in any one county.

### **What are some of the regulations proposed for dispensaries and growing facilities?**

None of the owners, board members, officers or employees of a dispensary or cultivation facility could have been convicted of a felony involving violence or the violation of a substance-control law within the past 10 years.

A person would not be allowed to own an interest in more than one dispensary and one cultivation facility. People submitting an application to license a dispensary or cultivation facility must be current residents of Arkansas and have resided in the state for the previous seven years. In addition, 60 percent of the facility’s ownership must be a current Arkansas resident and have resided in the state for the last seven years.

Doctors are prohibited from having an economic interest in a nonprofit cannabis care center if certifying people to qualify for medical marijuana, and no exams can take place at a location where cannabis is sold or distributed.

### **Are there regulations on where a dispensary or growing facility can locate?**

A dispensary could not locate within 1,500 feet of a public or private school, church or daycare that existed before the date of the dispensary’s application. Cultivation facilities could not locate within 3,000 feet of those buildings.

### **Could marijuana be grown openly outside?**

The amendment would require dispensaries to grow plants in enclosed, locked facilities. The proposal defines “enclosed, locked facility” as “a room, greenhouse or other enclosed area equipped with locks or other security devices that permit access only by an authorized individual.”



**If passed, can a city or county prohibit medical marijuana?**

The proposed amendment allows a city, incorporated town or county to pass zoning regulations for dispensaries and cultivation facilities, as long as the regulations are the same as those for a licensed retail pharmacy.

A city, incorporated town or county could prohibit dispensaries and cultivation facilities within their limits only if voters approve such a prohibition in a local election.

**What happens if a person doesn't follow the regulations?**

A cardholder who transfers cannabis to a person without a card would have his or her registry identification card revoked and would be subject to any penalties established by law.

The Alcoholic Beverage Control Division would be tasked with creating penalties for violations of the laws and the procedures for suspending or terminating the registration of a dispensary, cultivation facility and their employees that violate the amendment.

**If passed, what would happen with tax revenues?**

State and local tax rates would apply to sales of cannabis. State taxes would be distributed in the following percentages:

- 50 percent to the Department of Finance and Administration for grants to technical institutes and vocational-technical schools
- 30 percent to the state General Revenue Fund
- 10 percent to the Department of Career Education for workforce training programs
- 5 percent to the Department of Health
- 2 percent to the Alcoholic Beverage Control Administration Division
- 2 percent to the Alcoholic Beverage Control Enforcement Division
- 1 percent to the Medical Marijuana Commission

**What's the difference between this proposal and an act that is also on the ballot to legalize the growing, distribution, sale and use of medical marijuana?**

There is a table on pages 46-47 that highlights the differences between the two proposals.

**If passed, when would the changes take effect?**

Article 5, Section 1 of the Arkansas Constitution says ballot measures are in effect on the 30th day after the election at which it is approved unless otherwise specified.

The Arkansas Department of Health would have 120 days

from the law's effective date to adopt:

- Rules for considering and renewing applications for Registry Identification Cards
- Labeling and testing standards for marijuana distributed to qualifying patients
- Rules for designated caregivers assisting a physically disabled person or minor

The state health department would have 180 days to adopt rules establishing the process for considering petitions from the public to add medical conditions or treatments to the list of qualifying medical conditions.

Members of the Medical Marijuana Commission must be appointed within 30 days of the law's effective date, and the first meeting must take place within 45 days. The Medical Marijuana Commission would have 120 days from the law's effective date to adopt:

- Rules for considering and renewing licenses for dispensaries and cultivation facilities
- Operating, inspection and advertising requirements for dispensaries and cultivation facilities
- Application and renewal fees for dispensaries and cultivation facilities

The Medical Marijuana Commission must begin accepting applications for licenses to operate a dispensary and cultivation facility no later than June 1, 2017.

The Alcoholic Beverage Control Division would have 120 days from the law's effective date to adopt:

- Rules for considering and renewing applications of registry identification cards for dispensary and cultivation facility employees
- The form and content of registration and renewal applications
- Procedures for terminating the registration of dispensaries or cultivation facilities and subsequent penalties

**Where can I find more information?**

The complete wording of this amendment can be found at the bottom of an Attorney General's Opinion at <http://ag.arkansas.gov/opinions/docs/2016-007.pdf>.

The following is the proposed constitutional amendment name and title as they will appear on the state's November General Election ballot.

---

Issue No. 6

(Popular Name)

The Arkansas Medical Marijuana Amendment of 2016

(Ballot Title)

An amendment to the Arkansas Constitution making the medical use of marijuana legal under state law, but acknowledging that marijuana use, possession, and distribution for any purpose remain illegal under federal law; establishing a system for the cultivation, acquisition, and distribution of marijuana for qualifying patients through licensed medical marijuana dispensaries and cultivation facilities and granting those dispensaries and facilities limited immunity; providing that qualifying patients, as well as dispensary and cultivation facility agents, shall not be subject to criminal or civil penalties or other forms of discrimination for engaging in or assisting with the patients' medical use of marijuana; requiring that in order to become a qualifying patient, a person submit to the state a written certification from a physician licensed in the state that he or she is suffering from a qualifying medical condition; establishing an initial list of qualifying medical conditions; directing the department of health to establish rules related to the processing of applications for registry identification cards and the addition of qualifying medical conditions if such additions will enable patients to derive therapeutic benefit from the medical use of marijuana; directing the Alcoholic Beverage Control Division to establish rules related to the operations of dispensaries and cultivation facilities; establishing a Medical Marijuana Commission of five members, two appointed by the President Pro Tempore of the Senate, two appointed by the Speaker of the House of Representatives, and one appointed by the Governor; providing that the Medical Marijuana Commission shall administer and regulate the licensing of dispensaries and cultivation facilities; providing that there shall be at least 20 but not more than 40 dispensary licenses issued and that there shall be at least four but not more than eight cultivation facility licenses issued; setting initial maximum application fees for dispensaries and cultivation facilities; establishing qualifications for registry identification cards; establishing standards to ensure that qualifying patient registration information is treated as confidential; directing the Department of Health to provide the General Assembly annual quantitative reports about the medical marijuana program; setting certain limitations on the use of medical marijuana by qualifying patients; establishing an affirmative defense for the medical use of marijuana; establishing registration and operation requirements for dispensaries and cultivation facilities; setting limits on the amount of marijuana a dispensary may cultivate and the amount of marijuana a dispensary may dispense to a qualifying patient; providing that the Medical Marijuana Commission shall determine the amount of marijuana a cultivation facility may cultivate; prohibiting certain conduct by and imposing certain conditions and requirements on physicians, dispensaries, dispensary and cultivation facility agents, and qualifying patients; establishing a list of felony offenses which preclude certain types of participation in the medical marijuana program; providing that the sale of usable marijuana is subject to all state and local sales taxes; providing that the state sales tax revenue shall be distributed 5% to the Department of Health, 2% to the Alcoholic Beverage Control Administration Division, 2% to the Alcoholic Beverage Control Enforcement Division, 1% to the Medical Marijuana Commission, 10% to the Skills Development Fund, 50% to the Vocational and Technical Training Special Revenue Fund, and 30% to the General Revenue Fund; and permitting the General Assembly by two-thirds vote to amend sections of the amendment, except that the General Assembly may not amend the sections legalizing the medical use of marijuana and setting the number of dispensaries or cultivation facilities allowed.

FOR

AGAINST