

Issue	Current law	SB 5073	Effect
<b>Parolee rights</b>	No protection. DOC faces pressure and potential lawsuit to allow medical cannabis for parolees.	Correctional agencies explicitly authorized to disallow the medical use of marijuana for parolees.	<b>No change.</b> Codifies existing policy.
<b>Medical necessity</b> common law defense	Not mentioned, but supported by the existence of the medical cannabis law. Washington Appeals Courts are split on this issue, with Divisions I and III supporting medical necessity, and Division II rejecting it.	"Nothing in this chapter establishes the medical necessity" of medical cannabis. Specifically disavows the medical necessity defense and removes any support the law may provide to the Divisions I and III rulings if and when they reach the Washington State Supreme Court.	<b>Negative effect.</b>
<b>Protection for registered patients</b>	N/A	Patients and providers protected from warrantless search, warrantless arrest and prosecution if registered in a future DOH-run registry.	<b>Positive effect</b> only if the state allocates the money for the project and DOH implements it, which is completely out of line with their track record on medical cannabis.
<b>Protections for unregistered patients</b> who present valid paperwork	Affirmative defense if under limits	Affirmative defense maintained. Protection from being taken into custody or booked into jail before conviction.	<b>Negative effect.</b> Codifies existing law and case law which opens patients up to warrantless search of their home the moment they show their paperwork to police.
<b>Affirmative defense</b> for qualifying patients and designated providers	Available only if valid documentation presented to inquiring law enforcement at time of inquiry	Available to qualifying patients and designated providers who do not present valid documentation at time of questioning, as long as they can prove at trial they were validly authorized at time of questioning	<b>Positive effect.</b>
<b>Patients' parental rights</b>	Cannot be restricted without written findings of impairment and that use actually interferes with performance of parenting function as defined under RCW 26.09.004.	Cannot be restricted without written findings of impairment that use actually interferes with performance of parenting function as defined under RCW 26.09.004	<b>No change.</b> Reiterates current law.

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Patients needing <b>organ transplants</b>	Doctor review boards control transplant approval following national policies which deny medical cannabis patients on the grounds that cannabis "poses significant risk of rejection or organ failure." Waiting periods can and have been waived under threat of lawsuit.	Medical use of cannabis cannot be a sole disqualifying factor unless it is shown that use poses significant risk of rejection or organ failure. Waiting periods would be codified and given the full force of law.	<b>Negative effect.</b>
<b>Patients' housing rights</b>	No protection	(1) Cannot be denied housing or evicted solely due to medical use of cannabis subject to general restrictions on smoking of any substance, including tobacco; but (2) Housing programs containing drug and alcohol restrictions may prohibit medical use of cannabis.	<b>No change.</b> All federal Section 8 housing programs include a prohibition on cannabis. All state housing programs are Section 8 housing programs.
<b>Collective gardens</b>	No explicit protection (each patient or provider may possess only one patient's 60-day supply, and constructive possession is an issue)	Ten patients may collectively grow up to 45 plants	<b>Positive effect.</b>
Affirmative defense for duly authorized <b>patients visiting from out of state</b>	None	Available	<b>Positive effect.</b>
<b>Military personnel rights</b>	Not mentioned. Washington State military personnel provided an affirmative defense.	Washington State military personnel specifically denied the affirmative defense.	<b>Negative effect.</b>

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<b>Dispensaries</b>	Operate under one of two legal arguments: 1) that they are collectivizing costs, or 2) that they are the "designated provider" to no more than "one patient at any one time." No legal cannabis sales. Dispensaries are blossoming throughout the state, largely unregulated, often not paying appropriate taxes, not following basic security measures, unconcerned about zoning laws, etc. Raids and robbery are becoming more prevalent.	Removes "one patient at any one time" loophole. A limited number of dispensaries will be licensed by DOH to sell cannabis to patients. They will be licensed, taxed and highly regulated by the Department of Health and local authorities. It is expected that raid and robbery will become less prevalent, though the experience of some states indicates that many of these licensed dispensers will be raided by the federal government for violating the myriad promulgated state rules.	<b>Positive effect</b>
Protections for <b>producers, processors, or dispensers</b> serving more than one patient at any one time	None	(1) Licensed entities in compliance with law and regulations are exempt from state marijuana laws, so no probable cause to arrest, search, or prosecute; (2) Entities intending to become licensed receive affirmative defense protection during rulemaking period; but (3) "Licensed dispensers must be licensed and approved by the counties and cities in which they are located" (Sec. 704); and (4) "A licensed dispenser may not sell cannabis in any city, county, or town without first being authorized to do so by the city, county, or town legislative authority" (Sec. 705).	<b>Positive effect</b>

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<b>Research</b>	None explicitly authorized	UW and WSU explicitly authorized to "conduct scientific research on the efficacy and safety of administering cannabis as part of medical treatment," and they "may develop medical guidelines for the appropriate administration and use of cannabis."	<b>Positive effect.</b>
<b>Protections for health care professionals</b>	"Shall be excepted from the state's criminal laws and shall not be penalized in any manner, or denied any right or privilege"	Patient consultations and authorizations "do not constitute crimes under state law or unprofessional conduct under chapter 18.130 RCW, and a health care professional may not be arrested, searched, prosecuted, disciplined, or subject to other criminal sanctions or civil consequences or liability under state law, or have real or personal property searched, seized, or forfeited pursuant to state law."	<b>No change.</b>
<b>Requirements for health care professionals to authorize medical cannabis</b>	(1) Assess patient's medical history and current medical condition; and (2) Provide patient documentation that the medical use of marijuana may benefit patient.	(1) Documented relationship with patient relating to diagnosis and ongoing treatment or monitoring of patient; (2) Physical exam of patient as appropriate, based on condition and age; (3) Document condition and opinion that patient may benefit from medical use of cannabis in patient's medical records; (4) Inform patient of other options; (5) Document other measures attempted.	<b>Negative effect.</b>

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<b>Prohibitions on health care professionals</b>	None specific to authorizing medical use of marijuana. No punishment authorized.	(1) No pecuniary remuneration to or from licensed entities; (2) No financial incentives for patients to patronize specific licensed entities; (3) No examining patients at same location of a licensed entity; (4) No business or practice "which consists solely of examining patients for the purpose of authorizing the medical use of cannabis"; (5) No advertising that includes "any statement or reference, visual or otherwise, on the medical use of cannabis"; and (6) No economic interest in licensed entities if health care professional authorizes medical use of cannabis. Any violations would constitute a finding of unprofessional conduct.	<b>Negative effect.</b>
<b>Evaluation</b>	None required	WSIPP will study effectiveness of law	<b>No judgment.</b> Information is power, and requires a fiscal expenditure.
<b>"Plant"</b>	No real definition ("any marijuana plant in any stage of growth"); arguably, cuttings count toward 15-"plant" limit	"Plant" defined with both leaf and root requirements	<b>Positive effect.</b>
<b>"Useable cannabis"</b>	Definition currently includes leaves, no statement re: THC concentration or moisture content	Excludes leaves, requires at least 0.3% THC concentration, and defines "dried" as less than 15% moisture content	<b>Positive effect.</b>
<b>Presumptive 60-day supply</b>	Defined by DOH in agency rules	Codified in statute, affirmative defense of actual need of greater amounts preserved	<b>No judgment.</b>

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<b>Valid documentation expiration</b>	No codified expiration. Valid indefinitely or as long as indicated by health care professional.	Valid for no more than one year. Invalidates all existing "lifetime" authorizations, requiring those patients to renew – and usually pay – annually.	<b>Negative effect.</b>
<b>Additional documentation for designated providers</b>	A written statement made by the patient designating them as his or her provider. Valid indefinitely or as long as indicated by the statement.	A signed, dated document valid for no more than one year.	<b>Negative effect.</b> Additional burden on designated providers, and an additional technicality to deny them the affirmative defense.
<b>Terminology</b>	"Marijuana"	"Cannabis"	<b>Positive effect.</b>
<b>Public view restriction</b>	Illegal "to use or display in a manner or place which is open to the view of the general public."	Illegal "to open a package containing cannabis or consume cannabis in a public place in a manner which presents a reasonably foreseeable risk that another person would see and be able to identify the substance ... as cannabis." It is technically illegal for a patient to display or consume cannabis at the dispensary where they purchased it.	<b>Negative effect.</b>
<b>Fraudulent documentation</b>	Illegal to fraudulently produce valid documentation.	Illegal to fraudulently produce valid documentation, or to backdate such documentation.	<b>No judgment.</b>
<b>Advertising</b>	No restrictions.	Health care professionals are prohibited from mentioning the medical use of cannabis in their advertising. Advertising cannabis for sale in a way that "tends to promote the use or abuse of cannabis" would be illegal. Licensed entities may be fined \$1,000 for violating restrictions on the content of their advertising.	<b>Negative effect.</b>