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COMPARISON OF MEDICAL MARIJUANA PROGRAMS

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You asked for a comparison of the medical marijuana programs in Connecticut, California, Colorado, and Washington, including (1) their main features such as regulations on growing, distributing, and participating in the programs and (2) participation statistics. You also asked about the implications of the Connecticut Uniform Food, Drug and Cosmetic Act on Connecticut's medical marijuana program.

SUMMARY

Connecticut, California, Colorado, and Washington are among the 18 states with laws allowing for medical marijuana use under specified conditions. Connecticut's medical marijuana program was established by [PA 12-55](#) and is administered by the Department of Consumer Protection (DCP). Patients are able to obtain temporary registration certificates until DCP regulations fully implementing the program are approved and enacted. DCP recently submitted [revised proposed regulations](#) to the Regulation Review Committee.

There are many similarities between these states' medical marijuana programs. For example, each state:

1. allows patients to use marijuana if a physician documents that the patient suffers from a condition or symptoms that could be treated with marijuana (Washington allows certain other medical providers to also document the need for medical marijuana);
2. provides protection under state laws for patients, as well as their primary caregivers and physicians, for specified actions relating to authorized medical marijuana use;
3. specifically provides that insurers are not required to cover medical marijuana;
4. prohibits the use of medical marijuana in certain settings; and
5. specifies which medical conditions qualify for medical marijuana use.

There are also notable differences. For example:

1. Connecticut's list of qualifying conditions is the most restrictive (e.g., it is the only one of the four states that does not include chronic or severe pain as a separate qualifying condition).
2. Unlike the other three states, Connecticut's law does not (a) authorize a patient growing his or her own marijuana for medical use or (b) allow medical marijuana use by minors.
3. Colorado and Connecticut require dispensaries to be state-licensed (Connecticut's licensing regulations have yet to be enacted). California and Washington do not license dispensaries.
4. California, Connecticut, and Colorado issue patient registry or identification cards (registration is not mandatory in California). In 2011, Washington's governor vetoed a provision that would have created a patient registry.
5. The states also differ in the amount of marijuana that patients can possess.

Below, we compare significant feature of these states' medical marijuana programs. We also compare available patient statistics. The report does not discuss all aspects of the applicable laws. If you would like more details about particular features of any state's program, please let us know.

The law creating Connecticut's program does not explicitly mention the state Food, Drug, and Cosmetic Act. But while the proposed regulations have separate manufacturing, storing, dispensing, and labeling requirements, they do reference the Food, Drug, and Cosmetic Act. The proposed regulations specifically require act compliance (1) in any area within a production facility where marijuana will be manufactured into an edible form (Proposed Conn. Agencies Reg. § 21a-408-53(b)) and (2) for producer labeling and packaging (Proposed Conn. Agencies Reg. § 21a-408-56(c)(9)).

The proposed regulations also require anyone who removes any sample or record from a dispensary facility for an investigatory purpose or as evidence, under the proposed regulations or the Food, Drug, and Cosmetic Act, to provide a receipt, which must be kept for three years (Proposed Conn. Agencies Reg. § 21a-408-65(e)).

It is possible that other aspects of the Food, Drug, and Cosmetic Act may apply in situations where the proposed regulations are silent.

COMPARISON OF MEDICAL MARIJUANA PROGRAMS

Overview

Table 1 compares several basic features of the medical marijuana programs in Connecticut, California, Colorado, and Washington.

Table 1: General Provisions of Medical Marijuana Programs in Four States

	<i>Connecticut</i>	<i>California</i>	<i>Colorado</i>	<i>Washington</i>
When program took effect or significant amendments were adopted	2012: PA 12-55 Regulations fully implementing the program have not yet been approved	1996: voters approved Proposition 215 2003: legislation added voluntary identification card provisions, among other things	2000: voters approved Amendment 20 2010: legislation added several updates to the program, including business licensing provisions	1998: voters approved Initiative 692 2011: legislation made several revisions to the law; governor vetoed other legislation
Allows patients to grow their own marijuana?	Not addressed	Yes; patients can also form collectives or cooperates (see below) Cal. Health & Safety Code §§ 11362.5, 11362.775	Yes Colorado Const. Art. XVIII, § 14	Yes; up to 10 patients can also create a collective garden (see below) Rev. Code Wash. §§ 69.51A.040, 69.51A.085

	Connecticut	California	Colorado	Washington
Maximum amount of marijuana or plants patients can possess	<p>One-month supply</p> <p>During temporary registration period (before regulations are finalized and take effect), the maximum monthly supply is 2.5 ounces unless a patient's physician indicates a lesser amount is appropriate</p> <p>CGS § 21a-408a</p>	<p>In 2010, the state Supreme Court struck down a general statutory limit of 8 ounces of dried marijuana and six mature or 12 immature plants. The court held that this limit unconstitutionally amended the medical marijuana law enacted by voters (<i>People v. Kelly</i>, 47 Cal.4th 1008 (2010))</p>	<p>Two usable ounces and six plants (no more than three mature) (But patients can raise an affirmative defense to criminal prosecution that greater amounts were medically necessary)</p> <p>Colorado Const. Art. XVIII, § 14(4)</p>	<p>24 usable ounces and 15 plants (but patients can raise an affirmative defense to criminal prosecution that necessary medical use exceeds these limits)</p> <p>Rev. Code Wash. §§ 69.51A.040, 69.51A.045</p>
Are patients registered?	<p>Yes; temporary registrations are being issued until regulations take effect</p> <p>CGS §§ 21a-408d, -408n</p>	<p>Yes, but participation is voluntary</p> <p>Medical marijuana identification cards are valid for one year. Applications are processed by county health departments.</p> <p>Cal. Health & Safety Code §§ 11362.71, 11362.745</p>	<p>Yes; registration must be renewed annually</p> <p>Colorado Const. Art. XVIII, § 3</p> <p>5 Colo. Code Regs § 1006-22)</p>	<p>No (the governor vetoed provisions in a 2011 bill that would have created a registry)</p>

	Connecticut	California	Colorado	Washington
Registration fee	<p>\$25 (current fee until regulations take effect)</p> <p>Proposed regulations would set \$100 fee for patient registration and annual renewal; with possible waiver of \$75 for financial hardship</p> <p>Proposed Conn. Agencies Regs. § 21a-408-28</p>	<p>\$66</p> <p>\$33 for Medi-Cal (Medicaid) patients</p> <p>Additional county-level fees apply</p>	<p>\$35 (fee can be waived if income is not more than 185% of federal poverty level)</p>	n/a

	Connecticut	California	Colorado	Washington
Limitation on medical marijuana use at work	<p>Law's protections do not apply to patients ingesting marijuana in the workplace.</p> <p>Unless required by federal law or to obtain federal funding, employers (including the state or political subdivisions) are prohibited from refusing to hire someone or firing, penalizing, or threatening an employee, solely based on the person's status as a qualifying patient or primary caregiver. This provision does not restrict an employer's ability to prohibit the use of intoxicating substances during work hours or to discipline an employee for being under the influence during work hours.</p> <p>CGS §§ 21a-408a, -408p</p>	<p>Law does not require accommodation of medical use of marijuana on the property or premises of any place of employment or during work hours</p> <p>Cal. Health & Safety Code § 11362.785(a)</p>	<p>Law does not require employers to accommodate the medical use of marijuana in the work place</p> <p>Colorado Const. Art. XVIII, § 10</p>	<p>Law does not require accommodation of any on-site medical use of marijuana in any place of employment</p> <p>The law (1) specifies that employers may establish drug-free work policies and (2) does not require accommodation for the medical use of marijuana if an employer has such a policy</p> <p>Rev. Code Wash. § 69.51A.060</p>

	Connecticut	California	Colorado	Washington
Are minors eligible?	No CGS § 21a-408	Yes: county health department must contact the parent, guardian, or other person with legal authority to make medical decisions, to verify the minor's application Cal. Health & Safety Code § 11362.72	Yes: need parental consent, two physicians diagnosing an eligible condition, and parent must serve as primary caregiver, among other requirements Colorado Const. Art. XVIII, § 6	Yes. The law does not address minors' eligibility, but according to the state Department of Health website , there is no specific age requirement; providers may recommend medical marijuana for any patient when medically appropriate under the law and the professional standard of care.

Qualifying Medical Conditions

All four states specify various conditions eligible for medical marijuana (e.g., cancer). In addition to the listed conditions, California, Colorado, and Washington also allow medical marijuana use for other conditions that meet certain criteria or produce specified symptoms. Those three states also include severe or intractable pain as a qualifying condition.

Connecticut, Colorado, and Washington have provisions for patients to petition to add conditions to the list.

Table 2 below describes which medical conditions are eligible for medical marijuana use in these four states.

Table 2: Qualifying Medical Conditions Under Medical Marijuana Programs in Four States

Connecticut	California	Colorado	Washington
<ul style="list-style-type: none"> • AIDS or HIV • cachexia or wasting syndrome • cancer • Crohn's disease • damage to the nervous tissue of the spinal cord with objective neurological indication of intractable spasticity • epilepsy • glaucoma • multiple sclerosis (MS) • Parkinson's disease • posttraumatic stress disorder (PTSD) <p>DCP can add to this list, following recommendation by the Board of Physicians through regulations (board must hold hearings at least twice per year to consider petitions to add to the list)</p> <p>CGS §§ 21a-408, -408/</p>	<ul style="list-style-type: none"> • AIDS • anorexia • arthritis • cachexia (wasting syndrome) • cancer • chronic pain • glaucoma • migraine • persistent muscle spasms (i.e., those associated with MS) • seizures (i.e., epileptic seizures) • severe nausea • any other chronic or persistent medical symptom that either (1) substantially limits a person's ability to conduct a major life activity as defined in the federal Americans with Disabilities Act or (2) if not alleviated, may cause serious harm to the patient's safety or physical or mental health <p>Cal. Health & Safety Code § 11362.7</p>	<ul style="list-style-type: none"> • AIDS or HIV • cancer • glaucoma • a chronic or debilitating condition or associated treatment that produces one or more of the following symptoms and which, in the physician's professional opinion, may be alleviated by the medical use of marijuana: <ul style="list-style-type: none"> ○ cachexia ○ persistent muscle spasms (including those characteristic of MS) ○ seizures (including those characteristic of epilepsy) ○ severe nausea ○ severe pain <p>The state Department of Public Health and Environment can also approve additional conditions pursuant to rulemaking authority or approval of petitions (none approved so far)</p> <p>Colorado Const. Art. XVIII</p>	<ul style="list-style-type: none"> • AIDS or HIV • cancer • Crohn's disease* with debilitating symptoms • epilepsy or other seizure disorder • glaucoma* (acute or chronic) • hepatitis C* with debilitating nausea or intractable pain • intractable pain* • MS • spasticity disorders • diseases* (including anorexia) resulting in nausea, vomiting, wasting, appetite loss, cramping, seizures, muscle spasms, or spasticity • any other condition approved by the state Medical Quality Assurance Commission in consultation with the Board of Osteopathic Medicine and Surgery under law (in 2010, the commission granted a petition to add chronic renal failure to the list of qualifying conditions) <p>Rev. Code Wash. § 69.51A.010</p>

* Washington specifies that these conditions qualify only if unrelieved by standard treatments or medications.

Provisions on Growing and Dispensing Medical Marijuana

Connecticut. Connecticut's medical marijuana law does not authorize patients to grow their own marijuana.

The law requires the DCP commissioner to adopt regulations concerning the licensure and standards of marijuana dispensaries and producers (CGS §§ [21a-408h](#), [-408i](#)). The law prohibits anyone who is not licensed by DCP as a dispensary or producer from acting as one. Only licensed pharmacists are eligible for dispensary licenses. The commissioner cannot issue dispensary or producer licenses until the required regulations take effect (which has yet to occur).

Among other things, the regulations must (1) determine the number of dispensaries and producers appropriate to meet the needs of the state's qualifying patients (the number of producer licenses must be at least three but no more than 10); (2) establish health, safety, and security requirements; and (3) establish licensure fees. For a detailed description of the law's requirements, see the [Public Act Summary](#) for [PA 12-55](#) (§§ 9-10).

The proposed regulations would set various requirements for dispensaries and producers. For example, the regulations would set criteria for evaluating dispensary facility permit and producer license applications, such as whether the (1) proposed location would have a detrimental effect on nearby schools, hospitals, or places of worship and (2) number of facilities or producers in the area would be detrimental to the public interest (Proposed Conn. Agencies Regs. §§ 21a-408-14, 21a-408-20).

The proposed regulations would also require applicants for dispensary facility permits and producer licenses to provide documentation sufficient to establish that they will comply with all state and local building, fire, and zoning requirements and local ordinances that are consistent with the law. With regard to zoning requirements for producer applications, it is sufficient for an applicant to establish that the proposed location is in a zone where a pharmaceutical manufacturing facility would be allowed (*Id.* §§ 21a-408-15, 21a-408-21).

The proposed regulations would require people acting as dispensaries (i.e., individual pharmacists who dispense medical marijuana) to be licensed and other dispensary or production facility employees to be registered with DCP (*Id.* §§ 21a-408-16, 21a-408-22).

The proposed regulations would set various non-refundable fees for dispensary facilities and producers. For example, it would set a \$1,000 fee for a dispensary facility permit application, with an additional \$5,000 fee for approved applications before the applicant receives the permit. The renewal fee would be \$5,000.

The producer license application fee would be \$25,000, with an additional \$75,000 for approved applications before the applicant receives the license. The renewal fee would be \$75,000.

The initial and renewal fees for individual employees would be \$100 for dispensary licenses or production facility employee registration and \$50 for other dispensary facility employee registration (*Id.* § 21a-408-28).

The proposed regulations would set several requirements and prohibitions for the operation of dispensary facilities. For example, the regulations would prohibit marijuana from being consumed on the facility's premises. They would allow dispensaries to sell marijuana only to a qualifying patient or primary caregiver registered with DCP. The regulations would also require facilities to (1) maintain a visitor log and (2) provide DCP-approved information to patients and caregivers about the possession and use of marijuana (*Id.* §§ 21a-408-34, 21a-408-35).

The proposed regulations contain several other provisions concerning dispensary facilities and producers, such as (1) financial requirements, (2) grounds for license revocation, (3) security requirements, (4) product labeling, and (5) recordkeeping.

California. California's medical marijuana law allows patients to cultivate their own marijuana upon a physician's recommendation or approval (Cal. Health & Safety Code §§ 11362.5).

State law also exempts from various criminal sanctions qualified patients, people with valid identification cards, and their primary caregivers who associate within California to collectively or cooperatively cultivate marijuana for medical purposes (Cal. Health & Safety Code § 11362.775).

The law generally prohibits a medical marijuana cooperative, collective, dispensary, operator, establishment, or provider authorized by law to possess, cultivate, or distribute medical marijuana, and that has a storefront or mobile retail outlet which ordinarily requires a local business license, from being located within 600 feet of a school. This prohibition does not apply to licensed residential medical or elder care facilities. Local ordinances can further restrict the location or establishment of medical marijuana facilities (Cal. Health & Safety Code § 11362.768).

In California, the state does not license dispensaries, but local governments may require licensing. In May 2013, the state Supreme Court held that state law did not preempt local bans on medical marijuana dispensaries (*City of Riverside v. Inland Empire Patients Health and Wellness Center*, 56 Cal.4th 729 (2013)). Other provisions of the state medical marijuana act specify that the act does not:

1. authorize any individual or group to cultivate or distribute marijuana for profit (Cal. Health & Safety Code § 11362.765) or
2. prevent a city or other local governing body from adopting and enforcing local ordinances that regulate the location, operation, or establishment of a medical marijuana cooperative or collective (Cal. Health & Safety Code § 11362.83).

In 2008, the state attorney general issued non-mandatory *Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use*. Among other things, the guidelines provide that medical marijuana cooperatives or collectives should (1) be nonprofit, (2) obtain a seller's permit for tax purposes, (3) only obtain marijuana from their constituent members, and (4) not distribute marijuana to non-members. The guidelines are available at http://www.ag.ca.gov/cms_attachments/press/pdfs/n1601_medicalmarijuanaguidelines.pdf.

Colorado. Colorado allows medical marijuana patients to grow their own marijuana, subject to the plant limitations set forth above in Table 1.

Colorado licenses three types of medical marijuana businesses:

1. medical marijuana centers (facilities for patients to purchase marijuana),

2. medical marijuana optional premises cultivation (OPC) (facilities that grow, harvest, and process marijuana for sale in centers or for use in infused products); and
3. medical marijuana infused product manufacturers (MMIP) (facilities which produce marijuana-containing products, such as food) (Col. Rev. Stat. Ann. § 12-43.3-401 to -404).

These businesses need both state and local approval for licensure. State licensure is through the Department of Revenue.

There are certain restrictions on where medical marijuana businesses can be located. For example, initial licenses generally cannot be granted to businesses to sell marijuana at locations within 1,000 feet of a school; alcohol or drug treatment facility; principal campus of a college, university, or seminary; or residential child care facility. If a license was denied during the previous two years due to the nature of use or other concerns about the location, an application for the same license class cannot be granted within 1,000 feet of that location. The law also specifically prohibits marijuana businesses at locations where the business activity is prohibited by local zoning (Col. Rev. Stat. Ann. § 12-43.3-308).

Among other requirements for centers, a center employee must verify that the buyer has a (1) valid registry card or (2) copy of a current and complete new application for the registry that was submitted within the preceding 35 days. If the buyer shows (2), the employee must contact the state Department of Public Health and Environment to determine if the application was denied (Col. Rev. Stat. Ann. §§ 12-43.3-402, 12-43.3-901).

For centers, application and licensure fees vary based on the number of patients served. Application fees range from \$7,500 to \$18,000, and license fees range from \$3,750 to \$14,000. For both OPCs and MMIPs, there is a \$1,250 application fee and \$2,750 license fee.

Individuals who work in the medical marijuana industry must also be licensed as key or support employees (Col. Rev. Stat. Ann. § 12-43.3-307).

Colorado law allowed localities, until July 1, 2011, to adopt and enforce resolutions or ordinances licensing, regulating, or prohibiting the cultivation or sale of medical marijuana (Col. Rev. Stat. Ann. § 12-43.3-103).

In 2012, Colorado voters approved Amendment 64 (Colorado Const. Art. 18, § 16), which made legal under state law marijuana possession or use by adults age 21 or older, including growing up to six plants (three mature). It generally regulates marijuana similar to alcohol, including requirements for marijuana businesses.

Amendment 64 specifies that it does not limit any privileges or rights of a medical marijuana patient, primary caregiver, or entity licensed under the medical marijuana law. It also does not allow a medical marijuana center to (1) distribute marijuana to someone who is not a medical marijuana patient or (2) operate on the same premises as a retail marijuana store. It also provides certain advantages for businesses operating under the medical marijuana law who seek to transition their business to a facility for all adults, such as lower application fees.

Washington. Washington law allows medical marijuana patients to grow their own marijuana, subject to the limitations on plants set forth above in Table 1.

It also allows up to ten patients to create and participate in collective gardens to produce marijuana for medical use, subject to certain conditions. For example, the garden can contain no more than (1) 15 plants per patient, up to 45 total plants or (2) 24 usable ounces per patient, up to 72 total ounces. The usable marijuana from the garden cannot be delivered to anyone other than a participating patient (Rev. Code Wash. § 69.51A.085).

Washington law does not provide for medical marijuana dispensaries or license medical marijuana producers. In 2011, Washington's governor vetoed several provisions of a bill (SB 5073) affecting the state's medical marijuana program, including provisions establishing licensing requirements for businesses that produce, process, or dispense marijuana.

Washington law specifies that cities and towns may enforce zoning, business licensing, health and safety, or taxing requirements pertaining to marijuana production, processing, or dispensing. But the zoning requirements or other conditions on licensed dispensers cannot preclude the possibility of siting licensed dispensers within the jurisdiction (Rev. Code Wash. § 69.51A.140).

In 2012, Washington voters approved Initiative 502 (I-502), which generally removes state criminal penalties for the use of marijuana and allows the sale of marijuana by retailers licensed through the Liquor Control Board. The implementing rules must be completed by December

1, 2013. I-502 does not address medical marijuana. Thus, as explained on the state Department of Health [website](#), medical marijuana patients can continue to grow their own marijuana and will not be required to purchase their marijuana from a retail store.

More information on I-502 and its implementation is available on the Liquor Control Board’s website: <http://liq.wa.gov/marijuana/I-502>.

Program Statistics

Connecticut. According to DCP, as of July 5, 2013, there were 735 patients registered to use medical marijuana. Table 3 lists the primary qualifying conditions for these patients.

Table 3: Primary Qualifying Conditions for Registered Patients

Condition	Number of Patients
PTSD	212
Spinal Cord Damage	192
MS	141
Cancer	62
Crohn’s Disease	29
Wasting Syndrome	22
Epilepsy	21
Glaucoma	20
HIV/AIDs	19
Cachexia	13
Parkinson’s Disease	4

The average patient’s age is 42.8 with approximately a three to one male to female ratio. Currently there are 91 physicians that have registered with DCP to issue certifications for patient medical marijuana use.

California. According to the California Department of Public Health, 5,643 medical marijuana identification cards were issued in FY 2012-2013 as of June 11, 2013. This includes 5,283 for patients and 360 for primary caregivers. (As noted above, identification cards are voluntary in California, so these statistics do not capture the full population of medical marijuana patients in the state.)

The department states that 68,479 identification cards have been issued since FY 2004-2005: 62,147 for patients and 6,332 for primary caregivers.

More detail, including county-level statistics, is available on the department's website at <http://www.cdph.ca.gov/programs/mmp/Pages/default.aspx> (see "Data and Statistics").

A study of over 1,700 patients from nine medical marijuana assessment clinics in California in 2006 found that 72.9% of patients were male. On average, patients in the sample were somewhat younger than the general state population, and Latinos and Asian Americans were underrepresented. Over 82% of patients reported receiving a therapeutic benefit from marijuana for pain; the next highest conditions or symptoms were muscle spasms (41.1%), headaches (40.7%), anxiety (37.8%), nausea/vomiting (27.7%), and depression (26.1%). 67% of patients reported using marijuana daily (Reinarman, Craig et al., "Who Are Medical Marijuana Patients? Population Characteristics from Nine California Assessment Clinics," *Journal of Psychoactive Drugs*, 43 (2), 128-135, 2011).

Colorado. According to the Colorado Department of Public Health and Environment, as of May 31, 2013, 105,886 patients possessed valid Registry ID cards. The program has received 220,637 applications since it began operating in June 2001.

Among other noteworthy statistics on Colorado's program:

1. 67% percent of approved applicants are male;
2. the average age of all patients is 42;
3. 94% of patients on the registry report severe pain as one of their qualifying conditions, the second most common reported condition is muscle spasms (15%), and the third is severe nausea (11%);
4. 57% of patients have designated a primary caregiver or a medical marijuana care center; and
5. more than 800 doctors have signed certifications for current patients.

More detailed statistics are available on the department's website: <http://www.colorado.gov/cs/Satellite/CDPHE-CHEIS/CBON/1251593017044>.

Washington. Washington does not have a patient registry. We have contacted the state to see if they have statistics on medical marijuana use in Washington, and will update this report with any information we receive.

Links

The following websites provide links to these four states' medical marijuana laws and related information.

Connecticut Department of Consumer Protection, Medical Marijuana Program:

http://www.ct.gov/dcp/cwp/view.asp?a=1620&q=503670&dcpNav_GID=2109

California Department of Public Health, Medical Marijuana Program:

<http://www.cdph.ca.gov/programs/mmp/Pages/default.aspx>

Colorado Department of Public Health and Environment, Medical Marijuana Registry:

<http://www.colorado.gov/cs/Satellite/CDPHE-CHEIS/CBON/1251593016680>.

Colorado Department of Revenue, Marijuana Enforcement Division (includes occupational and business licensing):

<http://www.colorado.gov/cs/Satellite/Rev-MMJ/CBON/1251581331216>

Washington Department of Health, Medical Marijuana (Cannabis):

<http://www.doh.wa.gov/YouandYourFamily/IllnessandDisease/MedicalMarijuanaCannabis.aspx>

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