Medical marijuana—coming soon to a medicine cabinet near you?

Where the nation stands in terms of legalizing medical cannabis.

BY JULIANA MILHOFER, J.D.

The opinions on medical marijuana are as diverse as the legislative battles that have ensued over allowing for its use have been divisive. For physicians, the debate can be particularly nuanced. Those who oppose its use cite research showing the negative effects of smoking marijuana on the lungs, brain, heart and immune system. Others note the lack of research on how marijuana can provide medical benefit and the fact that the studies that have been done are not controlled clinical trials to assess its effectiveness and safety. Yet others are concerned that medical marijuana may be a “gateway” drug that could lead to use of other illicit drugs such as cocaine and heroin. On the other side are those whose patients suffer from severe pain or seizures and don’t find relief from conventional remedies, or who are at the end of life and seek relief from their discomfort. Physicians who treat those patients argue that allowing them to use medical marijuana is the compassionate thing to do.

The fact that we already have drugs derived from the cannabis plant has prompted some to ask whether medical marijuana needs to be legalized. Dronabinol (Marinol), a synthetic tetrahydrocannabinol (more commonly known as THC), was approved by the U.S. Food and Drug Administration (FDA) in 1985 to treat nausea and vomiting in patients undergoing chemotherapy. In 1992, the FDA gave approval for its use in treating loss of appetite for persons with AIDS. Nabilone (Cesamet), a synthetic analog of THC, was approved in 1985 as an antiemetic but did not actually become available until 2006.

Despite the lingering debate and despite the fact that the U.S. Drug Enforcement Administration (DEA) still categorizes marijuana as a Schedule I drug, meaning it has “no currently accepted medical use and a high potential for abuse,” state legislatures across the country have moved ahead and passed laws related to medical and recreational marijuana use. This article briefly describes where the country stands in terms of legalizing medical marijuana. It also outlines legislation that is being considered in Minnesota.

Is the country turning green?

Currently, 20 states plus the District of Columbia have legalized medical marijuana. Two states, Colorado and Washington, have also legalized marijuana for recreational use. Fifteen others including Minnesota are considering whether they should make medical marijuana legal.

Of the states that have legalized medical marijuana, most of their laws address: 1) whether home cultivation is allowed; 2) the role of caregivers (eg, how many patients they can assist at a time and whether they themselves can cultivate plants); 3) how much marijuana or how many plants a patient can possess; 4) whether dispensaries are allowed within the state; 5) what conditions would qualify a patient for medical marijuana use; 6) whether patients are issued identification cards; and 7) whether the state will recognize patients possessing out-of-state identification cards.

Here’s a look at what some of those states have done.

California

On November 5, 1996, California became the first state to legalize medical marijuana. The law allowed for physicians to “recommend” medical marijuana use for certain patients; for development of a “medical marijuana identification card” for those patients; and for creation of an online registry and verification system.

Many have argued that California’s law is too broad. When it passed in 1996, physicians were permitted to recommend medical marijuana not only for serious medical issues such as cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis and migraines, but also “for any other illness for which marijuana provides relief” such as depression and anxiety. Other states have learned from California’s experience and have made the list of qualifying conditions for medical marijuana more limited.
other states that have legalized medical marijuana, New York is creating a limited research program. Through this program, New York’s health department would establish guidelines and make decisions as to which hospitals can participate in the program. Those hospitals would then be charged with deciding which patients would qualify for medical marijuana use. New York’s Health Commissioner has noted that the research done in these hospitals would be used to help evaluate the effectiveness of marijuana as a treatment. Unlike other states that rely on dispensaries for marijuana, the hospitals participating in New York’s program will receive marijuana directly from the federal government.

New York
In January 2014, the governor of New York issued a directive that would allow 20 hospitals in the state to dispense medical marijuana to patients who have been certified by a doctor as having certain conditions including cancer, glaucoma, and others listed by the health department or who are in a “life-threatening or sense-threatening situation.” Unlike the

In Colorado, voters legalized medical marijuana in November 2000 through a constitutional amendment that authorized the possession, cultivation and use of medical marijuana by patients and their caregivers. In 2010, Colorado saw the passage of its second medical marijuana law, which created a dual-licensing scheme to regulate medical marijuana businesses at the state and local level.

In November 2012, voters in both states legalized the production, sale and use of recreational marijuana.

Arizona
In 1996, Arizona passed a ballot initiative allowing physicians to write a “prescription” for marijuana. That initiative was subsequently invalidated because of marijuana’s Schedule I designation. (The federal government prohibits “prescription” of Schedule I drugs.) In 2010, the state went on to pass a law creating a program in which physicians can “recommend” medical marijuana or “refer” patients to state-approved dispensaries.

Colorado and Washington
Colorado and Washington are the only two states that have legalized both the medical and recreational use of marijuana.

In November 1998, when Washington voters legalized medical marijuana, they removed the state-level criminal penalties attached to its use, possession and cultivation by patients who had valid documentation from their physician.

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States with medical marijuana laws or pending legislation

![States with medical marijuana laws or pending legislation](source: ProCon.org)
push for the legalization of medical marijuana remains to be seen.

Maryland
Maryland allows medical marijuana to be used as a legal defense in drug-possession cases. In May of 2013, Maryland’s governor signed a law creating a hospital-based medical marijuana research program. Under this law, marijuana would only be provided through teaching hospitals, and these hospitals would have the option of having a program for patients. The research program is not scheduled to begin until at least 2015.6

Medical marijuana in Minnesota
In Minnesota, legislation that would have allowed for the limited use of medical marijuana by qualified patients was passed in 2009, only to be vetoed by Gov. Tim Pawlenty. In 2013, legislation was again introduced to allow medical marijuana to become an option for certain patients.

The legislation attempts to address some of the problems other states have encountered since legalizing medical marijuana. For example, one of the biggest criticisms of California’s law is that it was vague in terms of conditions that qualified a patient to receive medical marijuana.

Minnesota’s legislation defines a “qualifying patient” as one “who has been diagnosed by a practitioner as having a debilitating medical condition.” The list of such conditions is extensive and includes cancer, glaucoma, HIV/AIDS, hepatitis C, post-traumatic stress disorder, and a chronic or debilitating disease/medical condition or its treatment that produces wasting syndrome, severe nausea and seizures.3,4,6 Minnesota’s legislation allows for additional conditions to be approved by the Commissioner of Health. It also creates a patient registry. Patients would be required to register and pay a fee to be included in it. Patients would receive a registry card that would verify their status as a qualifying patient. The Minnesota Department of Health would be charged with licensing and regulating dispensaries.

The role of physicians is also outlined in the legislation. Practitioners would be required to perform a full physical examination of the patient and fully assess the patient’s medical history and current medical condition. Documentation of this, along with a diagnosis, would be included in a written certification that would be signed and dated by the physician. The legislation would allow patients and their caregivers to possess up to 2.5 ounces of marijuana and authorize certain patients to cultivate up to six marijuana plants.

Advocates for the medical marijuana legislation hoped Minnesota lawmakners would approve the legislation this year. But that is not likely to happen. The challenge has been coming up with language that addresses the concerns of both supporters and opponents. In late March, Gov. Mark Dayton asked lawmakers to grant $2.2 million for clinical research into the drug’s efficacy for some seizure disorders at Mayo Clinic. The governor also called for a larger study of the benefits, costs and risks associated with medical marijuana.

Conclusion
The legalization of medical marijuana will continue to dominate conversations at the Capitol, in doctors’ offices and among the public. Which side of the debate Minnesota will land on remains to be seen, but one thing is certain: both physicians and patients are paying attention. MM

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