

Medical Cannabis

July 13, 2011

United States Code

- Federal law prohibits the production, processing, and dispensing of medical cannabis.
- Sentencing enhancements apply to violations involving
 - more than 99 plants
 - within 1,000 feet of a school

Deputy US Attorney General

- Ogden Memo – October 2009
 - Deputy US Attorney General David Ogden authors a memo to US Attorneys on medical marijuana.
 - Indicates that, while marijuana remains an illegal drug under federal law, Department of Justice will make “efficient and rational” use of resources in deciding which cases to pursue and will not focus on individuals whose actions are in “clear and unambiguous compliance” with state laws.

US Attorneys Durkin & Ormsby

- US Attorneys Durkan & Ormsby Letter – April 14, 2011
 - Will enforce the law vigorously against individuals and organizations that participate in the unlawful manufacturing and distribution activity involving marijuana, even if permitted under state law.
 - Others who knowingly facilitate should know that their conduct violates federal law.
 - “State employees who conducted activities mandated by the Washington legislative proposals would not be immune from liability under the CSA.”
- US Attorney General – June 29, 2011
 - Federal prohibition continues and compliance with state or local laws is not a defense.
- US Attorney Durkan – July 8, 2011
 - Federal government will not prosecute “truly ill people or their doctors and care givers for using marijuana to lessen suffering, as permitted under state law. “

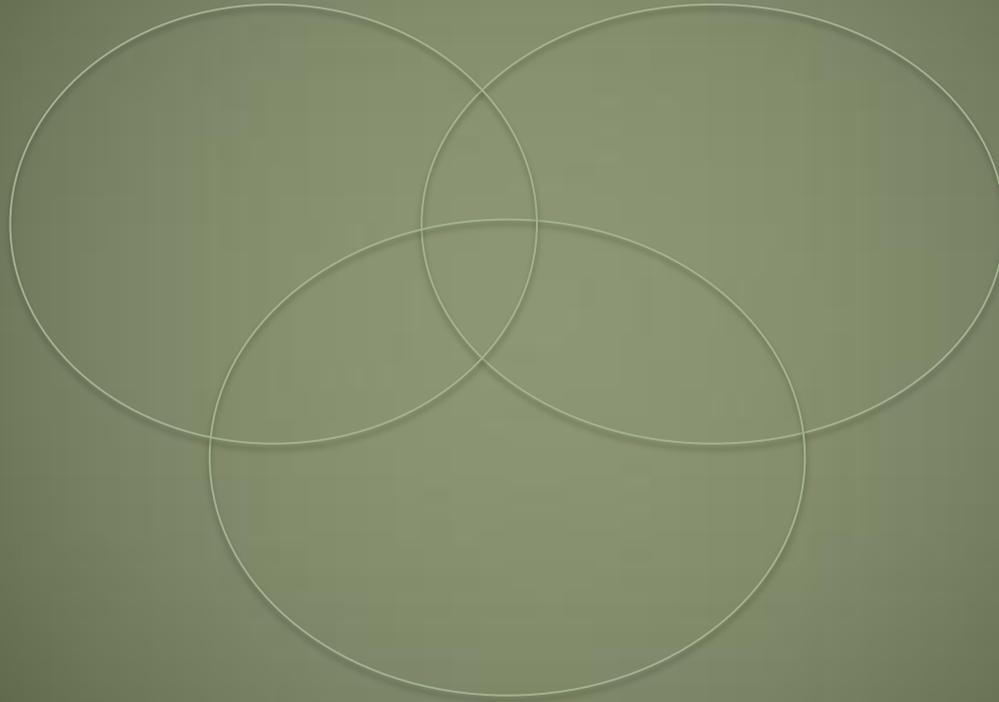
Medical Cannabis

What is new
under state law
July 22, 2011?

State Law Authorizes Three Scenarios

- Qualifying Patient may produce, process, and possess their own medical cannabis.
- Designated Provider may provide medical cannabis to one Qualifying Patient.
- Three to ten Qualifying Patients may form a Collective Garden.
 - Producing, processing, dispensing
 - 15 plants per patient up to 45 plants, and
 - 24 ounces usable cannabis per patient up to 72 oz

State law does not address
the Collective Garden “cooperative.”



Revised Code of Washington Allows Cities To Regulate Medical Cannabis

- Production
 - Growing, Harvesting, Curing
- Processing
 - Oils, Tinctures, Tablets, Edibles
- Dispensing
 - Storing, Transferring

Revised Code of Washington Allows Cities To Regulate Medical Cannabis

“So long as such requirements do not preclude the possibility of siting licensed dispensers within their jurisdiction,” cities may regulate:

- Zoning Requirements
- Business License Requirements
- Health and Safety Requirements
- Business Taxes

Stuck in the Middle

Federal prohibition

- Federal government will use resources rationally and efficiently
- Federal government will enforce law vigorously even if approved by state law
- Government employees should know not participate in or facilitate violations and are not immune from prosecution
- Remote possibility of actual federal enforcement

State authorization

- DP-QP (1:1) and Collective Gardens are allowed
- Cities cannot prohibit them
- Cities can (maybe) regulate them

What are the options?

- Do Nothing
- Use existing uses and categories to the greatest extent possible
- Focus on what is prohibited, rather than what is allowed
- Name, inspect, and approve something obviously prohibited by federal law

Current City of Seattle Laws

- Business License, B&O Taxes, SMC Title 5 (FAS)
- Land Use, SMC Title 23 (DPD)
- Environmental Protection, Historic Preservation, Noise, SMC Title 25 (DON, DPD, SPD)
- Building & Technical Codes, SMC Title 22 (DPD)
- Food-Service, No Smoking, SMC Title 10 (DPH)
- Street and Sidewalk Use, SMC Title 15 (SDOT)
- Chronic Public Nuisance, No Open Use (SPD)

Land Uses at Issue

- Medical Offices - Health Care Provider recommends it.
- Community Garden – This might allow for a single collective garden in all zones, but no use or display.
- Horticulture - Plants grown for sale or their products.
- Urban Farm - Plants grown for sale on or off site.
- Food processing and craft work - Food and crafts made by hand.
- Light Manufacturing - Food made by mechanized assembly.
- General Manufacturing – Pharmaceutical.
- Retail Sales and Service - Dispensary.
- Medical Services – Dispensary.

The City of Seattle

- Believes that the medical use of cannabis should be conducted in a safe and fair manner for the health, safety and welfare of the community
- Acknowledges federal prohibition but wants to respond to the changes in state law in a responsible manner that will minimize impacts to patients, providers, and the health, safety, and welfare of the community