

## Understanding Arizona's Propositions: Prop 203

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### Proposition 203 – Medical Marijuana

Proposition 203, the only citizens' initiative on the ballot, would allow patients with specific debilitating medical conditions to obtain marijuana with a physician's certification from a regulated, nonprofit dispensary and to use marijuana to treat or alleviate the identified medical condition or related symptoms.<sup>i</sup>

Prop 203 requires the process be regulated by the state Department of Health Services (DHS) and provides specifics on the amount a patient may receive. DHS may not issue more than one dispensary registration certificate for every 10 pharmacy permits issued by the State Board of Pharmacy.<sup>ii</sup> DHS reports there are approximately 1,240 licensed pharmacies statewide, which would result in approximately 120 marijuana dispensary licenses. Proposition 203 would exempt nonprofit medical dispensaries from state income tax.<sup>iii</sup>

The proposition would prohibit certain discriminatory practices against registered users. For example, in most cases a school would be prohibited from refusing to enroll a registered user and a landlord could not deny leasing to a registered user. The proposed law also would prohibit an employer from discriminating against registered users in hiring, terminating or imposing employment conditions.<sup>iv</sup>

However, Prop 203 would not authorize anyone to undertake certain tasks while under the influence of marijuana, including possessing or using marijuana on a school bus, on school grounds or in a correctional facility.<sup>v</sup>

The Joint Legislative Budget Committee – or JLBC, the budget staff for the Legislature – estimates the cost of operating the program at \$600,000 the first year, \$1.5 million the second year, and once fully established in the

#### Who qualifies?

A "qualifying patient" is one diagnosed as having:

- Cancer
- Glaucoma
- Positive status for HIV
- AIDS
- Hepatitis C
- Amyotrophic lateral sclerosis
- Crohn's disease
- Agitation of Alzheimer's disease
- A chronic condition that produces:
  - Cachexia or wasting
  - Severe and chronic pain
  - Severe nausea
  - Seizures
  - Severe, persistent muscle spasms
  - Any condition added by DHS through a public petition process

Source: Proposition 203 initiative language

third year, \$3.1 million. JLBC's estimate notes that per proposition language, the cost would be funded from application and renewal fees, civil penalties and donations.<sup>viii</sup>

DHS provides slightly different estimates of implementation costs to the agency:<sup>viii</sup>

- FY2011 - \$1.2 million
- FY2012 - \$1.5 million
- FY2013 - \$4.7 million

The JLBC determined the three-year timeframe by looking to other states and assumed a start date for the program no later than March 2011.<sup>ix</sup>

Fourteen states currently provide legal protection for seriously ill patients whose doctors recommend the medical use of marijuana. Estimates of potential qualifying patients in Arizona begin at 6,600 individuals in the current fiscal year, 33,000 individuals in FY2012, with 66,000 total registered by FY2013.<sup>x</sup>

Marijuana was listed in the United States Pharmacopeia from 1850 until 1942 and was prescribed for various conditions including labor pains, nausea, and rheumatism.<sup>xi</sup> However, the Controlled Substances Act of 1970 classified marijuana, along with heroin and LSD, as a Schedule I drug, having the relatively highest abuse potential and no accepted medical use. Reducing marijuana sales and use became a central aim of the nation's War on Drugs.

Over time medical research found that while marijuana's impact may be modest, there was potential therapeutic value, "particularly for symptoms such as pain relief, control of nausea and vomiting, and appetite stimulation."<sup>xii</sup>

In 1996, Arizona and California passed the nation's first medical marijuana laws. Arizona's measure allowed doctors to prescribe marijuana to treat diseases or to relieve the symptoms of seriously ill or terminally ill patients. It also reduced criminal penalties for non-violent offenders arrested for possession of marijuana.<sup>xiii</sup> However, the Arizona Legislature referred the initiative to the 1998 general election ballot in hopes of repealing the law. The effort failed, but the 1996 law never became fully functional, largely because it called for a doctor's "prescription" and federal law prohibits physicians from prescribing marijuana.

In 2002 Arizona voters defeated a separate measure that would have decriminalized the possession of two ounces or less of marijuana and required the Arizona Department of Public Safety to provide marijuana free to persons qualified to use marijuana for medical purposes.<sup>xiv</sup>

### **Yes on Proposition 203?**

Although the medical use of marijuana is not yet allowed under federal law, Attorney General Eric Holder announced in 2009 that federal prosecutors will not go after medical marijuana users who abide by state laws governing the drug's use for legitimate treatment purposes.<sup>xv</sup> Proponents point to this as an increasing recognition of the value of medical marijuana for helping individuals deal with chronic health conditions.

Proponents also note that not only have Arizonans approved this issue before, but that Proposition 203 does not utilize any taxpayer money, instead relying on licensing fees, civil penalties and private donations to cover the entire cost of regulating medical marijuana use. JLBC's analysis supports this.

While opponents of the proposition frequently point to California, and the perception that medical marijuana is largely not regulated, the Arizona initiative is written in a much more detailed manner and, as noted by JLBC, more closely aligned with Colorado law.

The Denver Police Department analyzed the rate dispensaries were burglarized or robbed in comparison to other businesses, and found the rate lower for dispensaries than for banks or liquor stores, and about on par with pharmacies.<sup>xvi</sup> Supporters also point out that Arizona's restriction on the number of dispensaries, one per 10 pharmacies, would provide additional restrictions.

Finally, supporters argue that patients who have received authorization from a medical professional for medical marijuana are struggling with legitimate, and often debilitating physical ailments and receive relief from medical marijuana. And, while organizations such as the American Medical Association and the American Cancer Society have not endorsed marijuana for medicinal purposes, both have stressed the need for further research exploring both the negatives and benefits of use.<sup>xvii</sup>

### **No on Proposition 203?**

Critics say the legalization of medical marijuana has sparked an underground pot culture in states that sanction its use. Los Angeles County District Attorney Steve Cooley has estimated that there are about 1,000 illegally operated marijuana shops in that city alone.<sup>xviii</sup>

The belief that marijuana is a "gateway" drug is often the primary concern cited by opponents of Proposition 203, who are looking to California's November election, where voters will decide whether to legalize marijuana for recreational use and allow the drug to be taxed.

While supporters cite lower crime rates specific to dispensary locations in Colorado, opponents look to other reports from Denver, where police officials report a "significant increase" in home invasion robberies near dispensaries.<sup>xix</sup>

Belief that the use of medical marijuana is not part of any conventional plan to manage pain is a concern for many, including Will Humble, director of the Department of Health Services. Humble and Dr. Laura Nelson, chief medical officer for DHS, submitted their formal opposition statement on Prop 203 to the Secretary of State's Office, noting: "The FDA doesn't recognize smoking marijuana as a treatment for any medical condition." Opponents also note that national and professional health organizations such as the American Medical Association and the American Cancer Society have not endorsed medical marijuana use.<sup>xx</sup>

Another key issue is the challenge in prescribing for severe or chronic pain, which is extremely difficult to diagnose and is often subjective to the individual patient. According to the Colorado Medical Marijuana Registry, severe pain accounted for 91% of all conditions reported by patients on the Registry.<sup>xxi</sup>

The law also does not offer any specific provisions on the legal standards of intoxication as it would relate to medical marijuana.

Finally, in addition to Humble, five county sheriffs, one chief deputy county sheriff and nine county attorneys have submitted their formal opposition to Proposition 203 to the Secretary of State's Office.

## The Bottom Line

A “yes” vote would allow certain patients with debilitating medical conditions to obtain marijuana from a regulated nonprofit dispensary for treatment or alleviation of the identified medical condition or related symptoms. The proposition also would require the Department of Health Services to regulate the process, which would be supported by fees, civil penalties and private donations.

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<sup>i</sup>Analysis of Legislative Council,

<http://www.azleg.gov/alispdfs/Council/2010BallotMeasures/AdoptedI042010.pdf>

<sup>ii</sup>*Ibid.*

<sup>iii</sup> Joint Legislative Budget Committee. Ballot Proposition 203 Fiscal Analysis.

<http://www.azleg.gov/jlbc/10novprop203fn.pdf>

<sup>iv</sup> Analysis of Legislative Council, <http://www.azleg.gov/alispdfs/Council/2010BallotMeasures/ChairI-04-2010draft.pdf>

<sup>v</sup> *Ibid.*

<sup>vi</sup> Joint Legislative Budget Committee. Ballot Proposition 203 Fiscal Analysis.

<http://www.azleg.gov/jlbc/10novprop203fn.pdf>

<sup>vii</sup> JLBC found Colorado to be the most parallel in set-up to Arizona’s proposed initiative. As a result, JLBC utilized Colorado’s cost per registrant as a base for estimating costs to Arizona.

<sup>viii</sup> Joint Legislative Budget Committee. Ballot Proposition 203 Fiscal Analysis.

<http://www.azleg.gov/jlbc/10novprop203fn.pdf>

<sup>ix</sup> *Ibid.*

<sup>x</sup> *Ibid.*

<sup>xi</sup> Patrick Stack, “A Brief History of Medical Marijuana,” *Time.com*, Oct. 21, 2009,

<http://www.time.com/time/health/article/0,8599,1931247,00.html?iid=sphere-inline-sidebar>

<sup>xii</sup> Joy, Janet E., Stanley J. Watson, Jr. and John A. Benson Jr., Editors. *Marijuana and Medicine: Assessing the Science Base. Executive Summary.* 1999.

<sup>xiii</sup> Arizona Secretary of State, *1996 Ballot Propositions*,

<http://www.azsos.gov/election/1996/General/1996BallotPropsText.htm>

<sup>xiv</sup> Arizona Secretary of State, *2002 Ballot Propositions*,

<http://www.azsos.gov/election/2002/Info/pubpamphlet/english/prop203.pdf>

<sup>xv</sup> Theo Emery, “Justice Won’t Go After Medical-Marijuana Users,” *Time.com*, Oct. 20, 2009,

<http://www.time.com/time/nation/article/0,8599,1931119,00.html?iid=sphere-inline-sidebar>

<sup>xvi</sup> Ingold, John. “Analysis: Denver pot shops’ robbery rate lower than banks’.” *The Denver Post*. January 27, 2010.

<sup>xvii</sup> <http://articles.latimes.com/2009/nov/11/nation/na-marijuana-ama11> &

<http://medicalmarijuana.procon.org/sourcefiles/ACSposition.pdf>

<sup>xviii</sup> Patrick Stack, “A Brief History of Medical Marijuana,” *Time.com*, Oct. 21, 2009,

<http://www.time.com/time/health/article/0,8599,1931247,00.html?iid=sphere-inline-sidebar>

<sup>xix</sup> Hemmat, Heidi. “Police report jump in crime near marijuana dispensaries.” FOX31NEWS, KDVR-TV, Denver. October 13, 2009. <http://www.kdvr.com/news/kdvr-crime-marijuana-101309.0.3838875.story>

<sup>xx</sup> <http://articles.latimes.com/2009/nov/11/nation/na-marijuana-ama11> &

<http://medicalmarijuana.procon.org/sourcefiles/ACSposition.pdf>

<sup>xxi</sup> As of November, 30, 2009. <http://www.cdphs.state.co.us/hs/medicalmarijuana/statistics.html>

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