

Arkansas

Arkansas passed a medical cannabis measure that would allow patients with specific conditions to buy medicine from dispensaries licensed by the government.

Status of medical marijuana in Arkansas

In 2016, the possession and use of marijuana for medical purposes was illegal in Arkansas. Voters narrowly defeated an initiative to legalize medical marijuana in 2012. Medical marijuana was legal in 25 states, and cannabis oil was legal in an additional 15, in 2016. While marijuana was still illegal at the federal level in 2016, enforcement of federal marijuana laws was often not strict against state-legal medical marijuana. In December 2014, the U.S. Congress passed a law that prohibited federal agents from raiding medical marijuana growers in states where medical marijuana is legal, effectively allowing states to legalize medical marijuana.

Initiative design

See also: Comparison of Issue 6 and Issue 7
Issue 7 would have legalized marijuana for medical use in Arkansas. The measure would have allowed for the establishment and regulation of not-for-profit marijuana dispensaries. Labs would have tested marijuana quality. State and local sales taxes would have been applied to medical marijuana. Revenue from these taxes would have

been allocated to providing low-income patients with medical marijuana. Patients who lived more than 20 miles from the nearest dispensary would have been permitted to grow marijuana for personal use. The Arkansas Department of Health would have oversaw the medical marijuana program.

State of ballot measure campaigns

Supporters, organized as Arkansans for Compassionate Care, outraised opponents three-to-one. As of October 22, 2016, supporters had received about \$163,251, while opponents had received \$58,825. Polls indicated dwindling support for the measure, with the most recent showing 40 percent favoring and 53 opposing Issue 7. Gov. Asa Hutchinson (R) opposed the measure.

Issue 7 was a competing measure with Issue 6 until the Arkansas Supreme Court struck Issue 7 from the ballot.

Issue 6 vs. Issue 7

Issue 6 and Issue 7 were competing measures until the Arkansas Supreme Court struck Issue 7 from the ballot on October 27, 2016.

Issue 6 was an initiated constitutional amendment known as the Arkansas Medical Marijuana Amendment. As the measure was an amendment, it prohibited the Arkansas Legislature from making make marijuana illegal again without voter approval. Issue 6 was approved.

Issue 7 was an initiated state statute known as the Arkansas Medical Cannabis Act. As the measure was a statute, the Arkansas Legislature would have been permitted to make medical marijuana illegal again with a two-thirds supermajority vote in each legislative chamber. The Arkansas Supreme Court struck Issue 7 from the ballot.

Why two measures?

Prior to the October 27, 2016, Arkansas Supreme Court ruling in *Benca v. Martin* that struck Issue 7 from the ballot, there were two initiatives designed to legalize medical marijuana on the Arkansas ballot. While there were a number of differences between the two, one difference in particular led measure sponsors to propose separate initiatives. This difference was what is called a “grow-your-own” provision. Issue 7 would have allowed some patients to grow marijuana at home for medical use. Issue 6 did not. David Couch, sponsor of Issue 6, worked for Issue 7’s sponsor, Arkansans for Compassionate Care, in 2012, when the group’s Issue 5 was defeated. Couch believed a major reason for the 2012 initiative’s defeat was its “grow-your-own” provision.

Melissa Fults, Director of Arkansas for Compassionate Care, asked Couch to drop his initiative. She pleaded, “Please do not place thousands of sick and dying Arkansans' future in jeopardy. Patients need safe and legal access to cannabis and if you continue we risk losing

the best chance that we've ever had. Placing two initiatives on the ballot will cause both to fail.”

Qualifying conditions

The following specific qualifying diseases and medical conditions would have been covered under Issue 6 and Issue 7:

Alzheimer’s Disease

Amyotrophic Lateral Sclerosis (ALS)

Arthritis[8]

Cancer

Crohn’s Disease

Fibromyalgia

Glaucoma

Hepatitis C

Positive Status for HIV and/or AIDS

Post Traumatic Stress Disorder (PTSD)

Tourette’s Syndrome

Ulcerative Colitis

Chronic or debilitating disease that produces Wasting Syndrome or cachexia

Chronic or debilitating disease that produces peripheral neuropathy

Chronic or debilitating disease that produces intractable pain

Chronic or debilitating disease that produces severe nausea

Chronic or debilitating disease that produces seizures

Chronic or debilitating disease that produces severe and

persistent muscle spasms

Any other medical condition or its treatment approved by the Arkansas Department of Health

The following specific qualifying diseases and medical conditions would have been covered under Issue 7 but not Issue 6:

Adiposis Dolorosa (Dercum's Disease)

Anorexia

Arnold-Chiari Malformation

Asthma

Attention Deficit Disorder/Attention Deficit Hyperactivity Disorder (ADD/ADHD)

Autism

Bipolar Disorder

Bulimia

Causalgia

Chronic Inflammatory Demyelinating Polyneuropathy (CIDP)

Chronic Insomnia

Chronic Obstructive Pulmonary Disease (COPD)

Complex regional pain syndrome (CRPS)—Types I and II

Dystonia

Emphysema

Fibrous Dysplasia

General Anxiety Disorder

Hydrocephalus

Hydromyelia

Interstitial Cystitis

Lupus

Migraines
Myasthenia Gravis
Myoclonus
Nail-Patella Syndrome
Neurofibromatosis
Parkinson's Disease
Posterior Lateral Sclerosis(PLS)
Post-Concussion Syndrome
Reflex Sympathetic Dystrophy (RSD)
Residual Limb and Phantom Pain
Restless Leg Syndrome (RLS)
Sjogren's Syndrome
Spinocerebellar Ataxia (SCA)
Spinal Cord Injury and/or disease (including but not limited to Arachnoiditis)
Syringomelia
Tarlov Cysts
Traumatic Brain Injury
Text of the measure

The popular name given for Issue 7 was as follows:

The Arkansas Medical Cannabis Act

An act making the medical use of cannabis, commonly called marijuana, legal under Arkansas state law, but acknowledging that cannabis use, possession, and distribution for any purpose remain illegal under federal law; establishing a system for the cultivation and distribution of cannabis for qualifying patients through

nonprofit cannabis care centers and for the testing for quality, safety, and potency of cannabis through cannabis testing labs; granting nonprofit cannabis care centers and cannabis testing labs limited immunity; allowing localities to limit the number of nonprofit cannabis care centers and to enact zoning regulations governing their operations; providing that qualifying patients, their designated caregivers, cannabis testing lab agents, and nonprofit cannabis care center agents shall not be subject to criminal or civil penalties or other forms of discrimination for engaging in or assisting with qualifying patients' medical use of cannabis or for testing and labeling cannabis; allowing limited cultivation of cannabis by qualifying patients and designated caregivers if the qualifying patient lives more than twenty (20) miles from a nonprofit cannabis care center and obtains a hardship cultivation certificate from the Department of Health; allowing compensation for designated caregivers; requiring that in order to become a qualifying patient, a person submit to the state a written certification from a physician that he or she is suffering from a qualifying medical condition; establishing an initial list of qualifying medical conditions; directing the Department of Health to establish rules related to the processing of applications for registry identification cards and hardship cultivation certificates, the operations of nonprofit cannabis care centers and cannabis testing labs, and the addition of qualifying medical conditions if such additions will enable patients to derive therapeutic benefit from the medical use of cannabis; setting maximum application and renewal

fees for nonprofit cannabis care centers and cannabis testing labs; directing the Department of Health to establish a system to provide affordable cannabis from nonprofit cannabis care centers to low income patients; establishing qualifications for registry identification cards; establishing qualifications for hardship cultivation certificates; establishing standards to ensure that qualifying patient and designated caregiver registration information is treated as confidential; directing the Department of Health to provide the legislature annual quantitative reports about the medical cannabis program; setting certain limitations on the use of medical cannabis by qualifying patients; establishing an affirmative defense for the medical use of cannabis; establishing registration and operation requirements for nonprofit cannabis care centers and cannabis testing labs; setting limits on the number of nonprofit cannabis care centers; setting limits on the amount of cannabis a nonprofit cannabis care center may cultivate and the amount of usable cannabis a nonprofit cannabis care center may dispense to a qualifying patient; prohibiting certain conduct by and imposing certain conditions and requirements on physicians, nonprofit cannabis care centers, nonprofit cannabis care center agents, cannabis testing labs, cannabis testing lab agents, qualifying patients, and designated caregivers; prohibiting felons from serving as designated caregivers, owners, board members, or officers of nonprofit cannabis care centers or cannabis testing labs, nonprofit cannabis care center agents, or cannabis testing lab agents; allowing visiting qualifying

patients suffering from qualifying medical conditions to utilize the medical cannabis program; and prohibiting special taxes on the sale of medical cannabis and directing the state sales tax revenues received from the sale of cannabis to cover the costs to the Department of Health for administering the medical cannabis program and the remainder to aid low income qualifying patients through the affordability clause.