

Protecting the Qualified Patient from Marijuana Prosecution

It is important to know that the Washington Medical Marijuana Act does not specifically prevent arrests of “qualified patients” who possess or grow marijuana. But, because police officers are now being trained to determine whether the facts are of a legitimate medical use, the patient will have a chance to show the officer that the marijuana use is legal. It will make your life easier, and the officer’s determination faster, if you carry the written medical documentation of your need for marijuana. At a minimum this will include a copy of your doctor’s authorizing medical records.

If a police officer has any doubts about a person’s claim of “medical use”, the officer is free to make an arrest and let the prosecuting attorney resolve the matter in court. If a qualified patient is arrested, there will be time to obtain the documentation that the patient should have presented to the officer, to now present to the prosecuting attorney. In most cases, the prosecutor can dismiss the criminal action at a pre-trial conference, that is, before proceeding to a trial.

If a case does proceed to trial, it will probably be necessary to have the qualified patient’s treating physician testify. The doctor will be able to state, as a medical expert, that the patient is “qualified” under the Act and that testimony should be binding on the judge or the jury.