



# Medical Marijuana – A Panel Discussion

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MISSOURI HOSPITAL ASSOCIATION

## Panelists

- Steve Levine, Partner, Husch Blackwell LLP
- Dr. Sam Bhayani, Chief Medical Officer of Washington University Faculty Practice Plan
- Dr. Sunil Sinha, Vice President and Chief Medical Officer of BJC Medical Group
- Moderator: Jane Drummond, General Counsel and Vice President of Legal Affairs, Missouri Hospital Association

## Objectives

- Patient Certification – Process and Issues
- Legal and Ethical Considerations for the Practitioner
- Organizational Compliance Concerns

## Physician Certification

Physicians do not **prescribe** medical marijuana. They certify a patient's qualifying medical condition.

- Cancer
- Epilepsy
- Glaucoma
- Intractable migraines unresponsive to other treatment
- Chronic medical condition causing severe, persistent pain or muscle spasms

## Physician Certification

### Qualifying conditions (cont.)

- Debilitating psychiatric disorders
- Human immunodeficiency virus or AIDS
- Chronic medical condition normally treated with prescription that could lead to addiction, when a physician determines that marijuana could be effective in treating the condition and is a safer alternative
- Terminal illness
- Any other chronic, debilitating or other medical condition based on judgment of physician

## Certification Process

### 19 CSR 30-95.110 – Physicians

- Physician must verify he or she:
  - Met with and examined the patient
  - Reviewed the patient's medical records or medical history
  - Reviewed the patient's current medications and medication allergies
  - Discussed the patient's current symptoms
  - Created a medical record for the patient regarding the meeting

## Certification Process

- Physician must verify he or she discussed with the patient:
  - Risks associated with medical marijuana, including known contraindications applicable to the patient
  - Risks of medical marijuana use to fetuses
  - Risks of medical marijuana use to breastfeeding infants

## Issues for Physicians

- Ambiguities in the certification form
- Regulatory requirements create potential for discipline?
- Managing patient expectations
- Patients do not have to follow physician recommendations
- Malpractice considerations and coverage

## Issues for Physicians

- What do we know about therapeutic benefit for any particular condition?
- What do we know about the effects of different strains/methods of delivery?
- What do we know about drug interactions?

## Issues for Physicians

- Adolescents – Certification and Secondary Use
  - Mandated reporting statutes
- Managing patients certified by another physician
  - Diagnostic dissonance

## Issues for Healthcare Facilities

- Tension between federal and state law
- Compliance with DEA regulations and Conditions of Participation
  - Attestations and certifications required for Medicare reimbursement
- DHSS/CMS Enforcement Stance
- CBD Oil

## Issues for Healthcare Facilities

- Possession and Administration by Patients
  - Medication documentation and reconciliation
  - Storage
  - Diversion
  - Incorporation into treatment plan

## Issues for Healthcare Facilities

- Workforce/Workplace Safety
  - Disability discrimination
  - Drug testing/Drug Free Workplace policies

## Discussion/Questions