



RULE-MAKING ORDER

CR-103 (June 2004)
(Implements RCW 34.05.360)

Agency: Department of Health.

- Permanent Rule
- Emergency Rule

Effective date of rule:

- Permanent Rules**
- 31 days after filing.
 - Other (specify) (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Effective date of rule:

- Emergency Rules**
- Immediately upon filing.
 - Later (specify)

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?
 Yes No If Yes, explain: .

Purpose: WAC 246-75-010 defines the quantity of marijuana that could reasonably be presumed to be a sixty day supply allowed under the medical marijuana law (chapter 69.51A RCW) for qualifying patients. The rules clarify the existing law, and will assist patients, designated providers, physicians, law enforcement, and others in understanding what constitutes a sixty day supply of medical marijuana.

Citation of existing rules affected by this order:

Repealed: none
Amended: none
Suspended: none

Statutory authority for adoption: RCW 69.51A.080 (Chapter 371, Laws of 2007)

Other authority :

PERMANENT RULE ONLY (Including Expedited Rule Making)

Adopted under notice filed as WSR 08-14-149 on 07/01/2008 (date).
Describe any changes other than editing from proposed to adopted version: See attached

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name: DOH Medical Marijuana phone (360) 236-4612
Address: PO BOX 47850 fax (360) 236-4626
Olympia, WA. 98504-7850 e-mail medicalmarijuana@doh.wa.gov

EMERGENCY RULE ONLY

Under RCW 34.05.350 the agency for good cause finds:

- That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding:

Date adopted: 10/01/08

NAME (TYPE OR PRINT)
Mary C. Selecky

SIGNATURE

TITLE
Secretary

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: October 02, 2008
TIME: 8:52 AM

WSR 08-21-001

(COMPLETE REVERSE SIDE)

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Federal rules or standards:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Recently enacted state statutes:	New	<u>1</u>	Amended	<u>0</u>	Repealed	<u>0</u>

The number of sections adopted at the request of a nongovernmental entity:

	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
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The number of sections adopted in the agency's own initiative:

	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
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The number of sections adopted using:

Negotiated rule making:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Pilot rule making:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Other alternative rule making:	New	<u>1</u>	Amended	<u>0</u>	Repealed	<u>0</u>

**WAC 246-75-010 – Medical Marijuana
CR103 Attachment**

Describe any changes other than editing from proposed to adopted version:

The department made changes to the rule to address public comment about the definition of “immature plant” and “mature plant” and the limit of six mature plants as part of the presumptive 60-day supply. Many comments stated the proposed definition of a 60-day supply did not include a sufficient number of plants for a 60-day supply of medical marijuana. The adopted rule allows for a limit of 15 plants in any stage of growth.

The department also removed from the proposed rule the requirement that a qualifying patient obtain documentation from a physician in order to overcome the presumptive limits. The adopted rule uses the language of the statute.

The department made the following specific changes to provisions of the rule:

WAC 246-75-010 (2) (b) and (c) were amended to remove the definition of “mature plant” and “immature plant.” The adopted rule defines a plant as any marijuana plant in any stage of growth.

WAC 246-75-010 (3) (a) was changed to remove the limit of six mature plants and eighteen immature plants. The adopted rule allows a limit of no more than fifteen plants.

WAC 246-75-010 (3) (c) was changed to remove the requirement that a qualifying patient provide documentation from the patient’s physician to overcome the rule’s presumptive amount of a 60-day supply. The adopted rule includes the statement from RCW 69.51A.080 that a qualifying patient may overcome the presumptive limit with evidence of necessary medical use.

Chapter 246-75 WAC

MEDICAL MARIJUANA

NEW SECTION

WAC 246-75-010 Medical marijuana. (1) Purpose. The purpose of this section is to define the amount of marijuana a qualifying patient could reasonably expect to need over a sixty-day period for their personal medical use. It is intended to:

- (a) Allow medical practitioners to exercise their best professional judgment in the delivery of medical treatment;
- (b) Allow designated providers to assist patients in the manner provided in chapter 69.51A RCW; and
- (c) Provide clarification to patients, law enforcement and others in the use of medical marijuana.

(2) Definitions.

(a) "Designated provider" means a person as defined in RCW 69.51A.010.

(b) "Plant" means any marijuana plant in any stage of growth.

(c) "Qualifying patient" means a person as defined in RCW 69.51A.010.

(d) "Useable marijuana" means the dried leaves and flowers of the *Cannabis* plant family Moraceae. Useable marijuana excludes stems, stalks, seeds and roots.

(3) Presumptive sixty-day supply.

(a) A qualifying patient and a designated provider may possess a total of no more than twenty-four ounces of useable marijuana, and no more than fifteen plants.

(b) Amounts listed in (a) of this subsection are total amounts of marijuana between both a qualifying patient and a designated provider.

(c) The presumption in this section may be overcome with evidence of a qualifying patient's necessary medical use.