

The Medical Cannabis Advocate's Handbook

KNOW THE RULES of THE GAME: CIVICS 101

*Our real freedom comes from being aware that
we do not have to save the world, merely make
a difference in the place where we live."*

—Parker Palmer

KNOW THE RULES OF THE GAME: CIVICS 101

Being an effective advocate for medical cannabis often means engaging the political system. But for most of us, the ins-and-outs of City Hall or the State Legislature are a mystery. This chapter is designed to give you a basic understanding of how legislation moves through the system and what you can do to influence that process. You will be a more effective advocate for medical cannabis if you understand the structure and process of your state and local government and know how to work within that system.

Read "ABCs of Citizen Advocacy" in the "Using Your Voice" chapter of this book to learn the "do's and don'ts" of being a citizen lobbyist for medical cannabis. That chapter talks about framing a simple message, talking with lawmakers, and using simple tactics to be more effective.

As a brief recap, medical cannabis advocates must be accurate, brief, and courteous with elected officials, and should always follow-up with lawmakers. These are important points to emphasize because too many citizen advocates sacrifice their credibility with and access to public figures by ignoring these simple rules. A medical cannabis advocate who bases his or her comments on verifiable facts and personal life experience will be more credible than one who exaggerates, extrapolates to the nth degree, or makes unreasonable representations. Short message are easier to digest and common courtesy will almost always take you further than confrontation—even if you are angry at those with whom you are speaking. Keep these simple principles in mind and use the other tactics here and in the "ABCs of



Citizen Advocacy" to get the most from your interaction with policy makers.

The two most important things you can do when trying to learn about the legislative process are to observe and ask ques-

tions. You will learn more by watching legislative bodies at work than you did in civics class. On the surface, the process seems dull and routine. But there is a lot going on when a legislative body is at work.

Obviously, some parts of the process are unclear to the uninitiated. Do not be afraid to ask questions of the staff or more experienced participants. Look up parliamentary procedure and read up on civic processes. There is a wealth of information on the Internet regarding general process and specific legislative bodies.

And finally, you will do better in politics if you look and behave like a political person. Note how people at City Hall or in the U.S. Congress dress and comport themselves. It is probably more formal than what you are used to but ASA strongly recommends you dress in an appropriate manner when attending public meetings or visiting lawmakers. It will help build rapport and provide one less obstacle to overcome when trying to communicate. Likewise, your demeanor in public and private meetings should be friendly, professional, and courteous. Reaching out to lawmakers is not always a good time to be loud, confrontational, or too familiar.

WHO REPRESENTS YOU?

One of the first things you will want to decide is to whom you should be talking about med-

ical cannabis. You are represented by lawmakers at the local, state, and federal levels. It is a good idea to find out who your representatives are right away. You can locate your representatives online at a variety of websites hosted by government agencies or private political organizations. If you cannot find a good resource, email ASA at info@safeaccessnow.org or call toll free (888) 929-4367 for help. Use the worksheet in this chapter to record the names of your elected representatives.

On the federal level, every American is represented by two U.S. Senators and one member of the U.S. House of Representatives. The Senators represent the entire state while Members of the U.S. House of Representatives are elected by individual districts in their respective states. On the state level, you are represented by a single Senator and one member of a separate body, usually referred to as the House of Representatives or House of Delegates. The State of Nebraska is unique in that it has only one legislative body.

On the local level, representation is more varied. Your county, city, town, or township may be governed by an elected body of varying size and structure. For most communities, this will be a city council or a county board of supervisors. Local representatives may be elected by individual districts, so they will only represent a portion of the city or county. Alternatively, your local representatives may be elected "at large," meaning they represent the entire jurisdiction. Some governing bodies combine district representation with atlarge representatives.

You will want to speak with your representative in the appropriate level of government. If you are discussing statewide medical cannabis laws, for instance, you should be talking with your State Senator or member of the State House of Representatives. But if you are talking about local regulations for the city in which you live, you should be talking instead with your representative on the city council.

HOW LAWS ARE MADE

Laws about medical cannabis can be made in different ways, depending on the level of government at which you are working. There are three primary options:

1. **Legislative process** — Congress, the state legislature, or local government can enact a new law. This is the most common way new legislation is adopted, and we will explore this process in detail below.
2. **Voter initiatives** — Citizens in 24 states and the District of Columbia can adopt new laws using a voter initiative. Most of the state medical cannabis laws were adopted this way. There is no federal initiative process.
3. **Judicial review** — in some cases, federal and state courts can interpret or overturn laws deemed unconstitutional. Although judicial review is not technically a legislative process, the outcome of the court's decision is sometimes called "case law" and can be a binding precedent in future cases.



Legislative processes can vary from one jurisdiction to another but generally follow the same procedure for introducing legislation, conducting hearings, and adopting bills. The terminology may differ from one place to another, of course. You will need to become familiar with the process and terminology in the jurisdiction in which you are working.



CITY COUNCILS & COUNTY SUPERVISORS

Local rules about medical cannabis will be established by your city council, county board of supervisors, or other local elected body. Generally speaking, only one local government body will have regulatory authority. If you are inside city limits, local regulations will be adopted by the city council. If you are outside a city, the county board of supervisors may be charged with setting local policy. In some rare cases, there may be overlapping jurisdiction between the local elected body and special districts—school boards, business improvement districts, water districts, coastal commissions, etc. City councils and county boards of supervisors typically follow similar processes to adopt new ordinances.

A member of the city council or the mayor may propose an ordinance. This is usually done by making a motion asking city staff to write an ordinance designed to accomplish a specific goal. For example, a city council member may propose a motion asking staff to develop safety standards, location criteria, and/or operational guidelines for medical cannabis collectives. The draft ordinance is prepared for a hearing by the city attorney's office or other legal department. In some cases, councilmembers or public interest groups may submit a complete draft of an ordinance for consideration.

Once written, the ordinance is assigned a number and published by the city clerk for the "first reading" (sometimes referred to as "first hearing"). After the first reading, the

draft ordinance is usually referred to a council committee for study, public discussion, and the amendment process where necessary. If approved by the committee, the bill is passed back to the city council for a second reading. Additional committee hearings are held if the city council decides they are necessary. A third reading may lead to the final passage of the ordinance into law. In most cases, the mayor must sign or veto the legislation. If the mayor vetoes the ordinance, it is returned to the council. The council may override the mayor's decision to veto with a two-thirds vote. There is a great deal of variance in the veto/override process.

A city council may take one of the four following legislative actions pertaining to medical cannabis. Each of these may impact the process differently:

- Ordinances are laws adopted by the council that usually amend the Municipal Code. Most ordinances appear on two consecutive Council Agendas. The first appearance is for the purpose of hearings, the second is for adopting the proposal into law. Usually, ordinances are effective 30 days after they are accepted.
- Resolutions are express decisions, opinions, or actions taken by the council, but they do not amend the Municipal Code or other laws.
- Minute Orders are the rarest action, but they are used to approve policy, establish procedures, or provide direction to staff.
- Appointments are designations of selection applications to various boards, commissions, and committees by the council.

Public participation in each process is welcomed throughout the hearing process and in council meetings. Opportunities for the public to address the council are provided through the Public Comment, Consent Calendar, and Public Hearing sections of the agenda. Speakers must be registered prior to the meeting to address the council. The mayor will call you when it is your turn to

address the council. Only agenda items will be discussed during hearings, as state law prohibits any deterrence from the agenda items, so it is important to keep speeches focused. Written communications are also acceptable.

Be strategic in how and when you communicate with city councilmembers about proposed regulations. It is best to chime in early with solutions, using the tactics discussed in other chapters of this book. Do not hesitate to contact city council offices to talk with the Member or staff about proposals on the phone, in writing, and in person. It is easiest to influence legislation at the committee level when there are fewer Members to persuade. Reach out to members of the committee that will hear testimony about the bill before the hearing and be ready to summarize your comments on the day of the hearing.



STATE LEGISLATURES

State legislatures have jurisdiction in every city and county in the state. Laws adopted by the state legislature preempt local ordinances in most cases. This means that state law trumps local law when the two differ. Many states that have recently adopted medical cannabis laws rely more heavily on statewide regulation than on local ordinances.

The process of adopting a new state law (sometimes called a "statute" or "bill") is similar to the process on the local level. However, state legislatures typically have more bureaucracy than local government—especially in more populous states. This may present a bar-

rier for medical cannabis advocates when it comes to introducing or supporting good bills. Advocates who want to introduce medical cannabis bills in the state legislature will need to become well-versed in procedures and timelines for introducing new legislation. Most of this information is available online. You can also get the basic information for introducing legislation from the staff at the offices of sympathetic state lawmakers. Contact ASA at info@safeaccessnow.org or toll free at (888) 929-4367 if you are having trouble finding this information.

A state lawmaker can introduce new medical cannabis legislation in response to a need he or she perceives or at the request of constituents, public interest groups, lobbyists, or others. The actual language of the bill can be written by staff at the lawmaker's office, legislative counsel, or third parties. Advocates can use the model bill in this workbook to suggest language for a new law. After introduction, a bill is assigned a number and referred for committee hearings by a special committee of the legislature.

The state process for adopting bills is similar to the local process—introduction, committee hearings, and votes in each house of the legislature. This process can take many months to complete. If a bill is adopted by both houses of the legislature, the Governor can sign the bill into law or veto it. Most states allow the legislature to override a gubernatorial veto. The votes needed to override veto vary from state to state.

The political arena can get very complicated at the state level. Lawmakers and their staff usually deal with a lot of serious and time-sensitive issues and a wide variety of constituents, public interest groups, and lobbyists compete for their attention. Do not be discouraged if state lawmakers are harder to reach than local elected officials. Advocates should be persistent in using the techniques described in this workbook—including time-tested strategies for talking with lawmakers, mobilizing supporters, and building coalitions.



U.S. CONGRESS

In order to protect patients' rights, we must finally harmonize federal law with the laws of the fifteen states and the District of Columbia in which medical cannabis is already legal. This means passing a new law (or laws) in the U.S. Congress. In our federalist system of government, the federal government shares power with the state governments. In some cases, federal law may preempt state law. In the case of medical cannabis, however, the federal courts have declined to overturn or preempt state laws. That is good news for patients where medical cannabis is legal, but we must change federal law to eliminate federal interference and protect patients in every state.

Passing a bill through both Houses of the U.S. Congress is a big project. Individuals and organizations spend years trying to accomplish this. Do not be discouraged. There was a time when even environmental and civil rights legislation was considered impossible. But dedicated and strategic people worked for years to change federal laws. Some of you

reading this workbook will do the same for medical cannabis!

Just as at the local and state level, anyone can suggest a new bill. However, only a Member of Congress can introduce new legislation. A medical cannabis bill can be introduced into either the House of Representatives or the Senate. After introduction, the bill will be referred to one or more committees for consideration, before going for a vote on the floor of the house into which it was introduced. If it passes, the bill goes to the other house to repeat the committee and floor vote process. A bill can be amended at any time in this process. If the version adopted by each house differs due to amendments, the two versions will be sent to a conference committee made up of Congress Members from both houses to resolve the differences. Then the conference committee will send the harmonized bill back to both houses for final approval. The President has the authority to veto any bill passed by Congress. If he or she does so, both houses of Congress can override the veto with a two-thirds majority vote.

It can take years to pass a federal bill, especially one that is controversial. Medical cannabis advocates have much work to do in building support for federal legislation among the grassroots constituents and Congressional delegations. You are a part of that process right now. Remember that incremental victories bring us closer to new federal laws. Building coalitions, adopting resolutions at the local and state level, shaping media coverage, and other grassroots work is slowly turning the tide in Washington, DC.

MODEL LEGISLATION

For model state legislation on medical cannabis and a model local ordinance for regulating medical cannabis dispensing centers, see the Appendix.