

**STATE OF WASHINGTON
DEPARTMENT OF HEALTH
MEDICAL QUALITY ASSURANCE COMMISSION**

In Re the Second Petition of:

ROBERT KILLIAN, MD,

Petitioner.

FINAL ORDER ON PETITION TO
INCLUDE DISEASES WHICH PRODUCE
CERTAIN GASTROINTESTINAL
SYMPTOMS, NEUROLOGICAL
DISORDERS, AND MOOD DISORDERS
UNDER RCW 69.51A

THIS MATTER came before the Medical Quality Assurance Commission on June 2, 2000, at the Doubletree Hotel Seattle Airport, SeaTac, Washington, on the petition of Robert Killian, MD, concerning the inclusion of diseases producing certain gastrointestinal symptoms, neurological disorders, and mood disorders as terminal or debilitating medical conditions under RCW 69.51A. The Commission, having considered the petition and the record in this matter, now issues the following:

Section 1: FINDINGS OF FACT

1.1 On January 31, 2000, the Petitioner, Robert Killian, MD, filed a petition with the Medical Quality Assurance Commission ("Commission") requesting that, pursuant to RCW 69.51A.070, the Commission approve the following for inclusion in RCW 69.51A.010(4)(d), the following:

Physicians may authorize the use of marijuana to treat any disease that causes any of the debilitating symptoms in the following list:

Gastrointestinal Symptoms:

- Nausea/vomiting
- Anorexia
- Wasting
- Appetite loss
- Cramping

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1

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6/19/2000

Neurological Disorders:

- Seizures
- Muscle spasms
- Spasticity

Mood Disorders:

- Insomnia
- Post Traumatic Stress Disorder

These authorizations would be legal and binding if there is evidence that normal medical therapies have failed to relieve the symptoms.

Undated petition received by the Medical Quality Assurance Commission January 31, 2000.

1.2 On April 19, 2000, at the Doubletree Suites, Seattle, Washington, a public hearing was held before a panel of the Commission. The Petitioner submitted supporting documentation into the record and spoke to the panel. Testimony was taken from a number of interested parties. The Commission is also in receipt of additional written comments.

1.3 On May 9, 2000, and May 24, 2000, the available Committee members met by telephone conference to discuss the petition and the written and testimonial evidence presented to it.

1.4 On June 2, 2000, during its open business meeting, the Medical Quality Assurance Commission considered the Committee's input, record of the public hearing held on April 19, 2000, the additional written comments, and made the determinations herein.

1.5 The Commission rejects the language in the petition that medical marijuana "authorizations would be legal and binding if there is evidence that normal medical therapies have failed to relieve the symptoms." The Commission finds that the statute does not contemplate that physicians can provide a "legal and binding" authorization for the use of medical marijuana. Instead, the statute authorizes physicians to freely advise qualifying patients, without threat of state action, about the risks and benefits of the medical use of marijuana and to advise a patient that such use may be beneficial when it is within a professional standard of care

or appropriate within the medical judgment of an individual physician. Additionally, the statute permits physicians, under state law, to issue valid documentation to patients when based on the physician's assessment of the patient's medical history and current condition that the potential benefits of the medical use of marijuana outweigh the likely health risks for the particular patient. RCW 69.51A.030

1.6 The Commission finds that, in the context of this petition, a medical diagnosis of some disease is an essential pre-requisite to engaging in a risk/benefit analysis as to whether the medical use of marijuana may be beneficial to a particular patient.

1.7 There appear to be no clinical studies concerning the benefits of using marijuana in the treatment of patients with the symptoms and disorders listed in the noted petition. Anecdotal information, however, suggests that medical use of marijuana may be beneficial for patients with some of the listed symptoms and disorders. There are some symptoms and conditions that do not, however, appear to merit inclusion under RCW 69.51A as terminal or debilitating medical conditions.

1.8 The Commission concludes it is appropriate to include diseases resulting in nausea, vomiting, wasting, appetite loss and cramping on the statutory list of terminal or debilitating medical conditions in RCW 69.51A.010(4), when those symptoms are unrelieved by standard medical treatments and medications.

1.9 The Commission finds that anorexia is a disease diagnosis itself and should be included on the statutory list of terminal and debilitating medical conditions if it results in nausea, vomiting, wasting, appetite loss, and/or cramping, unrelieved by standard medical treatments and medications.

1.10 The Commission concludes that it is appropriate to include diseases resulting in seizures, muscle spasms, and spasticity on the statutory list of terminal and debilitating medical

conditions in RCW 69.51A.010(4), when those symptoms are unrelieved by standard medical treatments and medications.

1.11 The Commission concludes there is not sufficient evidence to permit inclusion of diseases resulting in insomnia and/or post traumatic stress disorder on the statutory list of terminal and debilitating conditions in RCW 69.51A.010(4).

Section 2: CONCLUSIONS OF LAW

2.1 The Commission has jurisdiction over this matter pursuant to RCW 69.51A.070.

2.2 The Commission has determined that diseases which result in nausea, vomiting, wasting, appetite loss, cramping, seizures, muscle spasms, and spasticity, when those symptoms are unrelieved by standard treatments or medications, constitute “terminal or debilitating medical condition[s]” within the meaning of RCW 69.51A.010(4).

2.3 The Commission finds that anorexia is a disease diagnosis, which, when it results in symptoms of nausea, vomiting, wasting, appetite loss, and/or cramping unrelieved by standard medical treatments and medications, constitutes a “terminal or debilitating medical condition” within the meaning of RCW 69.51A.010(4).

2.4 The Commission finds that diseases which result in symptoms of insomnia and/or post traumatic stress disorder do not constitute “terminal or debilitating medical condition[s]” within the meaning of RCW 69.51A.010(4).

Section 3: ORDER

3.1 Diseases, including anorexia, which result in nausea, vomiting, wasting, appetite loss, cramping, seizures, muscle spasms, and/or spasticity, when these symptoms are unrelieved by standard treatments or medications, constitute “terminal or debilitating medical condition[s]” within the meaning of RCW 69.51A.010(4).

Section 4: NOTICE TO PARTIES

As provided in RCW 34.05.461(3), RCW 34.05.470, and WAC 246-11-580 either party may file a petition for reconsideration. The petition must be filed with the Adjudicative Clerk Office, 1107 Eastside Street, PO Box 47879, Olympia WA 98504-7879, within ten (10) days of service of this Order. The petition must state the specific grounds upon which reconsideration is requested and the relief requested. The petition for reconsideration shall not stay the effectiveness of this Order. The petition for reconsideration is deemed to have been denied twenty (20) days after the petition is filed if the Commission has not acted on the petition or served written notice of the date by which action will be taken on the petition.

"Filing" means actual receipt of the document by the Adjudicative Clerk Office, RCW 34.05.010(6) and WAC 246-11-080. This Order was "served" upon you on the day it was deposited in the United States mail. RCW 34.05.010(18).

Proceedings for judicial review may be instituted by filing a petition in the Superior Court in accord with the procedures specified in chapter 34.05 RCW, Part V, Judicial Review and Civil Enforcement. The petition for judicial review must be filed within thirty (30) days after service of this Order, as provided by RCW 34.05.542.

DATED this 19 day of June, 2000.

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IAN PAXTON, PA-C, Vice-Chair

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