STATE OF WASHINGTON
DEPARTMENT OF HEALTH
MEDICAL QUALITY ASSURANCE COMMISISON

KENNETH LACHMAN, Petitioner.	NO. FINAL ORDER ON PETITION FOR INCLUSION OF CHRONIC RENAL FAILURE REQUIRING HEMODIALYSIS AS A TERMINAL OR DEBILITATING CONDITION UNDER RCW 69.51A.010(4)

This matter came before the Medical Quality Assurance Commission (Medical Commission) on July 16, 2010 at the Puget Sound Educational service District, Blackriver Training and Conference Center, Renton, Washington, on the petition of KENNETH LACHMAN, for the inclusion of chronic renal failure requiring hemodialysis as a terminal or debilitating medical conditions under RCW 69.51A. The Commission, in consultation with the Board of Osteopathic Medicine and Surgery (Osteopathic Board), having considered the petition and the record in this matter, now issues the following:

I. FINDINGS OF FACT

1.1 On or about February 15, 2010, the Petitioner Kenneth Lachman, filed a petition with the Medical Commission requesting that, pursuant to RCW 69.51A.070, the Medical Commission include chronic renal failure requiring hemodialysis as "terminal or debilitating medical condition(s)" under RCW 69.51A.010(4)(g).

1.2 On June 2, 2010, at the Washington State Department of Health Offices in Tumwater, Washington, a public hearing was held before a panel consisting of three members of the Medical Commission and three members of the Osteopathic Board.

1.3 The Petitioner appeared and testified personally in support of the petition.

1.4 Public testimony was taken from members of the public. Written comments and information were also received from the public.

1.5 Expert testimony was provided by four expert witnesses at the public hearing, Dr. David J. Tauben, Department of Anesthesia and Pain Medicine, University of Washington School of Medicine; Dr. Gregory Carter, Department of Rehabilitation Medicine, University of Washington; Dr. Seth Thaler, Memorial Nephrology Associates, Olympia; and Dr. Eric B. Larson, Center for Health Studies, Group Health Cooperative. The expert witnesses answered questions from the members of the panel at the June 2, 2010 public hearing.

1.6 On June 18, 2010, the Osteopathic Board held a telephonic special public meeting to deliberate on the petition and to determine what recommendation, if any, it would make regarding the petition. The public was provided access to the meeting telephonically and in person at the Department of Health Offices in Tumwater, Washington. The Osteopathic Board considered the public hearing panel members' input and the panel's review of the record of the public hearing held on June 2, 2010, in making its recommendation. The Osteopathic Board voted to recommend that the petition be granted. The Osteopathic Board's recommendation was sent by letter to the Medical Commission.

1.7 On July 16, 2010, at the Medical Commission's regular public business meeting at the Blackriver Training and Conference Center, Renton, Washington, the Medical Commission deliberated on the petition to determine what recommendation, if any, it would make. The Medical Commission considered the written recommendation of the Osteopathic

Board, the input of the Medical Commission's public hearing panel members and the record of the public hearing held on June 2, 2010, including the written comments and the public hearing transcript and made the determinations herein. The Medical Commission voted to issue a Final Order granting the petition on July 16, 2010.

1.8 The Petitioner provided information from his personal experience as a hemodialysis patient and explained the nausea and other side effects caused by fluid shifts during the dialysis procedure.

1.9 The expert testimony of nephrologist Dr. Thaler, confirmed the side effects of the procedure described by the Petitioner are not uncommon, and that a prescription drug containing synthetic THC, is used to help reduce these side effects. Dr. Thaler also noted that the smoked form of marijuana could not be used during dialysis at a dialysis facility because of limits on smoking in public facilities generally, and more specifically, because of potential health issues of other patients undergoing dialysis at the dialysis facility. Another concern expressed by Dr. Thaler was that marijuana use may adversely affect the eligibility of a hemodialysis patient as a transplant candidate.

1.10 The Commission concludes that there is sufficient evidence to support including chronic renal failure requiring hemodialysis on the list of terminal or debilitating medical conditions for which medical marijuana use may be recommended under RCW 69.51A.010(4).

1.11 The Commission is concerned that patients with chronic renal failure who are undergoing kidney dialysis may not be aware that marijuana use may jeopardize the patient's eligibility for renal transplant or have other potential adverse effects in light of the patient's unique medical condition. Therefore, the Commission concludes that chronic renal failure patients who require hemodialysis should be specifically provided with information necessary to complete informed consent of all potential adverse implications associated with marijuana use,

including any potential effect on renal transplant eligibility when a health care provider recommends marijuana use for this condition.

1.12 The Commission supports rigorous scientific randomized controlled clinical trials that have potential to demonstrate marijuana's effectiveness or efficacy in controlling side effects of hemodialysis.

II. CONCLUSIONS OF LAW

2.1 The Medical Commission, in consultation with the Osteopathic Board has jurisdiction over this matter pursuant to RCW 69.51A.070.

2.2 In interpreting the information presented to it, the Medical Commission and Osteopathic Board utilized its expertise in evaluating the evidence presented and in weighing the potential risks and benefits of using marijuana to treat chronic renal failure.

2.3 The Medical Commission, in consultation with the Osteopathic Board, has determined that, as described in the petition and public testimony, chronic renal failure requiring hemodialysis is a condition with a broad range of patient-specific symptoms, effects, risks and responses to treatment. Some side effects of hemodialysis for patients with chronic renal failure, such as nausea and anorexia are currently treated with a prescription drug containing synthetic THC (Marinol). The Medical Commission concludes that chronic renal failure requiring hemodialysis is a "terminal or debilitating medical condition(s)" within the meaning of RCW 69.51A.010(4) for which medical use of marijuana may be recommended subject to conditions.

2.4 The limitations and conditions for approval are: 1) the health care provider must ensure informed consent of risks associated with marijuana use based on the patient's condition, including but not limited to, any potential adverse effect of marijuana use on the patient's eligibility for renal transplant; 2) marijuana use by a chronic renal failure patient in connection

with side effects of hemodialysis, including use of the smoked form of marijuana, must be consistent with requirements and restrictions at the dialysis facility where dialysis is received; 3) the approval is subject to review and modification if newly-available published, and peer-reviewed clinical studies that are scientific, controlled and randomized, demonstrate that marijuana use by chronic renal failure patients to alleviate side effects of hemodialysis adversely affects their health outcomes or treatment.

III. ORDER

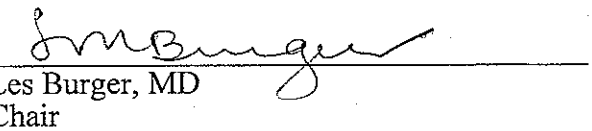
The petition to add chronic renal failure requiring hemodialysis as a "terminal or debilitating medical condition(s)" for which medical use of marijuana may be recommended within the meaning of RCW 69.51A.010(4) is GRANTED SUBJECT TO THE FOLLOWING CONDITIONS:

1) The health care provider must ensure informed consent of risks associated with marijuana use based on the patient's condition, including but not limited to, any potential adverse effect of marijuana use on the patient's eligibility for renal transplant;

2) Marijuana use by a chronic renal failure patient in connection with side effects of hemodialysis, including use of the smoked form of marijuana, must be consistent with requirements and restrictions at the dialysis facility where dialysis is received;

3) Approval is subject to review and modification if newly-available, published, and peer-reviewed clinical studies that are scientific, controlled and randomized demonstrate that marijuana use by chronic renal failure patients to alleviate side effects of hemodialysis adversely affects their health outcomes or treatment.

DATED this 26 day of August 2010.



Les Burger, MD
Chair

NOTICE TO PARTIES

Either party may file a petition for reconsideration. RCW 34.05.461(3); 34.05.470. The petition must be filed within 10 days of service of this order with:

Medical Quality Assurance Commission
243 Israel Rd SE
P.O. Box 47866
Olympia, Washington, 98504-7866

The petition must state the specific grounds for reconsideration and what relief is requested. WAC 246-11-580. The petition is denied if the Medical Commission does not respond in writing within 20 days of the filing of the petition.

A petition for judicial review must be filed and served within 30 days after service of this order. RCW 34.05.542. The procedures are identified in chapter 34.05 RCW, Part V, Judicial Review and Civil Enforcement. A petition for reconsideration is not required before seeking judicial review. If a petition for reconsideration is filed, the above 30-day period does not start until the petition is resolved. RCW 34.05.470(3).

The order is in effect while a petition for reconsideration or review is filed. "Filing" means actual receipt of the document by the Medical Commission. RCW 34.05.010(6). This order is "served" the day it is deposited in the United States mail. RCW 34.05.010(19).

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In the Matter of **KENNETH LACHMAN** Petitioner	**No.** **DECLARATION OF SERVICE BY MAIL**

Under penalty of perjury under the laws of the state of Washington, I declare that the following is true and correct:

On August 31, 2010, I deposited in the United States mail, a properly addressed and stamped envelope containing a true and correct copy of the Final Order of Petition for Inclusion of Chronic Renal Failure Requiring Hemodialysis as a Terminal or Debilitating Condition Under RCW 69.51A.010(4), on the following parties:

KENNETH LACHMAN
10302 LAKE VIEW AVE SW #14
LAKEWOOD, WA 98499

Debbie Sloan
DEBBIE SLOAN, LEGAL SECRETARY

Original filed with:
Department of Health
Adjudicative Clerk Office
Adjudicative Service Unit
P.O. Box 47879
Olympia, WA 98504-7879