

**FILED**

AUG 25 2014

1 Ken Sobel, Esq. [Bar No. 06551]  
2 5346 Soledad Rancho Court  
3 San Diego, CA 92109  
4 Phone: 619.208.2439  
5 Email: [kennysocal711@gmail.com](mailto:kennysocal711@gmail.com)

ADHS/Clerk of the Department  
Administrative Counsel

**COPY**

AUG 18 2014



MICHAEL K. JEANES, CLERK  
D. CADY  
DEPUTY CLERK

*ATTORNEYS FOR PLAINTIFFS/APPELLANTS;*  
*THE ARIZONA CANNABIS NURSES ASSOCIATION and*  
*HEATHER MANUS, RN.*

**SUPERIOR COURT OF THE STATE OF ARIZONA**

**COUNTY OF MARICOPA**

9 The ARIZONA CANNABIS NURSES  
10 ASSOCIATION ("AZCNA"), an Arizona  
11 Non-Profit Corporation, and Heather Manus,  
12 Individually and On Behalf of the AZCNA,

Case No. LC 2014-000393-001

**FIRST AMENDED NOTICE OF  
APPEAL AND/OR  
ALTERNATIVELY FOR SPECIAL  
ACTION**

13 Plaintiffs and Appellant,

14 v.

15 ARIZONA DEPARTMENT OF HEALTH  
16 SERVICES ("AZDHS"), an Arizona  
17 administrative agency; WILLIAM HUMBLE,  
18 Director of the AZDHS in his official  
19 capacity,

20 Defendants and Appellees.

INTRODUCTION

21 The Arizona Cannabis Nurses Association ("AZCNA"), submitted a Petition  
22 seeking to add Post-Traumatic Stress Disorder or PTSD as a "debilitating" condition under  
23 Arizona's voter-approved Medical Marijuana Act (Proposition 203), in July, 2013.

24 After a 45 minute hearing in October, 2013, the Director denied the Petition on  
25 January 14, 2014. [As evidence later revealed, AZDHS has denied every petition seeking  
26

1 to add a new debilitating condition – approximately 20, in total – since the inception of the  
2 program in April, 2011].

3 At the Department’s invitation, AZCNA filed an Administrative Appeal with the  
4 Office of Administrative Hearings. After 24 hours of evidentiary hearing, ALJ Judge  
5 Shedden ruled that AZDHS was wrong to deny the Petition, and ordered that it be added.

6 After taking the full 35 days to do so, AZDHS Director Humble decided to defer to  
7 the OAH Decision, and added PTSD. However, in doing so, the Director improperly  
8 added some additional conditions, none of which have any basis in law or rule, nor any  
9 basis in fact or reason. Indeed such “add-ons” seem to violate both the spirit and intent of  
10 AMMA and Prop 105 – Arizona’s Voter Protection Act.

11 The sole purpose of this Appeal (or, alternatively, special action) is to ask this Court  
12 to determine that the delay in implementation was improper and the “add-ons” violate the  
13 law and must be stricken.

14 Briefly, the “add-ons” by the Director include (1) Delay in Implementation for  
15 nearly 5 months, until January 1, 2015; (2) Attempting to create a legal distinction between  
16 medical marijuana’s “palliative” v. “therapeutic” benefit (where no such distinction occurs  
17 in the law); (3) a discriminatory provision that only affects PTSD sufferers – a requirement  
18 that a physician certify that the PTSD sufferer is undergoing “conventional” treatment for  
19 PTSD in order to get a medical recommendation to use marijuana. [This is the most  
20 egregious of the “add-ons” as it inserts the Director into the constitutional and other  
21 protected rights of patients, intrudes on the physician/patient relationship, and  
22 discriminates against the PTSD sufferer versus the other listed debilitating conditions]; (4)  
23 suggests – as a reason for the five month delay – some lengthy and burdensome  
24 requirement to meet the educational/informational requirements for certifying doctors,  
25 medical directors, dispensaries and staff – when, in fact, all such information is readily  
26 available now.

1 As more fully explained herein, under AMMA and the Rules, the Director had only  
2 1 decision to make – to add PTSD, or not. The remainder of his Decision is mere  
3 surplusage that has no basis in law. Under the appellate authority given to this Court  
4 pursuant to ARS Section 12-910(E), which specifically allows the Court to “modify” the  
5 Director’s Decision, the Court should strike the “add-ons” as more fully described herein.

6 That is the sole relief sought by Appellant.  
7

8 JURISDICTION/VENUE/PARTIES

9 1. At all times relevant herein, Appellant AZCNA is a non-profit organization  
10 domiciled in Arizona, and the entity that filed a Petition to Add PTSD as a Debilitating  
11 Condition pursuant to ARS Section 36-2801.01 and AAC R9-17-106, and the successful  
12 appellant in *Arizona Cannabis Nurses Association v. Arizona Department of Health*  
13 *Services*, OAH Case No. 2014-MMR-0254, ALJ Decision dated June 4, 2014, attached  
14 hereto as Exhibit “1” and incorporated herein by reference.

15 2. Plaintiff, Heather Manus, RN, is the President of AZCNA and an individual  
16 PTSD sufferer who resides in Pima County, Arizona.

17 3. Defendant Arizona Department of Health Services (“AZDHS”) is an Arizona  
18 administrative agency with its principal place of business in Maricopa County responsible  
19 for implementing and administering the Arizona Medical Marijuana Act (“AMMA”).

20 4. Defendant William Humble is the Director of AZDHS and is believed to be a  
21 resident of Maricopa County. In his capacity as Director of AZDHS, Defendant Humble  
22 is responsible for implementing and administering the AMMA. He is sued in his official  
23 capacity.

24 5. Jurisdiction is proper pursuant to Arizona Revised Statutes, Section 36-  
25 2801.01, Sections 12-901 and 12-905, and Arizona Court Rules, Rule 1 (Special Actions).  
26



- 1 10. The OAH appointed Judge Thomas Shedden to hear the appeal, and between  
2 March 26, 2014 and May 15, 2014, more than 24 hours of evidentiary hearings  
3 occurred. Three medical doctors – including a doctor who served as the chief  
4 medical officer for the US Olympic Track & Field team – and Nurse Heather –  
5 testified to a “reasonable degree of medical certainty” that medical cannabis was  
6 “safe and effective” in the treatment of PTSD.
- 7 11. On June 4, 2014, Judge Shedden announced his decision reversing the  
8 Director’s decision, and ordered that PTSD be added as a debilitating condition.  
9 Judge Shedden found that AZCNA had presented “substantial evidence” that  
10 PTSD sufferers receive a palliative benefit from medical cannabis. Exhibit “1”.
- 11 12. After 35 days, Director Humble finally deferred to the Judge’s decision, and  
12 rendered a Decision Adding PTSD as a debilitating condition. Exhibit “2” at  
13 page 11, lines 16 through 19, inclusive.
- 14 13. However, the Director then proceeded to unlawfully attempt to delay the ruling or  
15 diminish its effect by including certain “add-ons” to the Decisions, as follows: (1)  
16 Delay implementation until January 1, 2015 (Ex. 2, page 11, lines 21 – 23); (2) attempt  
17 to “re-define” ARS Section 36-2801(18) [which defines “written certification” for  
18 recommending medical marijuana] and requiring such recommendation to “be  
19 specifically limited to palliative, non-therapeutic use”] and only as it relates to a PTSD  
20 sufferer (as distinguished from any other type of patient suffering from another type of  
21 debilitating condition listed under the Act. Exhibit 2, page 11, lines 24 - 27; (3) Using  
22 the same “definitional” section, i.e. ARS Section 36-2801(18), to prohibit physicians  
23 from giving a medical marijuana certification to a PTSD patient – and only as it relates  
24 to a PTSD patient – unless they “attest” that the “[PTSD] patient is participating in  
25 conventional treatment for Post-Traumatic Stress Disorder.” Exhibit 2, at page 12,  
26 lines 1-4; and, (4) attempt to justify the delay in implementation based on educational

1 or informational requirements of physicians, medical directors and dispensaries where  
2 such information is readily available as described in Mr. Sobel's letter to AZDHS'  
3 counsel dated July 11, 2014. Exhibit "3" attached hereto and incorporated herein by  
4 reference as though fully set forth at length herein.

5 STATEMENT OF THE ISSUES PRESENTED FOR REVIEW

6 14. Pursuant to ARS Section 12-904(A), the following is the Appellant's Statement of  
7 Issues Presented For Review:

- 8 1. Whether the Director has the authority to delay the implementation  
9 of PTSD as a listed debilitating condition;
- 10 2. If so, whether the Director properly exercised such authority in  
11 delaying the implementation for nearly 5 months, or whether the  
12 implementation could occur sooner;
- 13 3. Whether the Director has the authority to distinguish between a  
14 therapeutic or palliative benefit as it relates to adding a debilitating  
15 condition;
- 16 4. Whether the Director has the authority to modify a statutory  
17 provision and using the same to discriminate against a PTSD  
18 patient v. a patient qualifying under another listed debilitating  
19 condition;
- 20 5. Whether the Director has the authority to limit a certifying  
21 physician by requiring the physician to "attest" to a PTSD patient  
22 is undergoing conventional treatment for PTSD, unlike any other  
23 listed condition;
- 24 6. Whether imposing the "conventional treatment" condition on a  
25 PTSD patient constitutes a violation of their Constitutional rights  
26

1 applicable to a PTSD patient which requires the certifying physician's "attestation that  
2 the patient is participating in conventional treatment for Post-Traumatic Stress  
3 Disorder." Clearly, Administrator Humble has no authority to change the  
4 requirements imposed by a statute, particularly one that is protected by Proposition  
5 105, The Arizona Voter Protection Act, and clearly one that very transparently  
6 discriminates against a PTSD patient versus any other patient suffering from another  
7 listed debilitating condition.

8 19. The Arizona Voter Protection Act, Proposition 105, adopted in 1998 by voter initiative  
9 amended the Arizona Constitution relating to initiative and referendum measures and  
10 protecting those measures from future interference by the executive or legislative branches of  
11 government. For example, it prohibits a governor's veto of the initiative; prohibits legislative  
12 repeal; requires a supermajority of three-fourths vote to amend or to supersede the measure,  
13 and allows amendment only if such "further the purpose of the measure." It surely was  
14 intended to prevent a sub-division within the executive branch like an administrative  
15 agency or director from issuing decisions like this one which have the effect of  
16 amending the statute, or other actions which diminish the measure by administrative  
17 fiat.

18  
19 20. Nothing contained in the Arizona Revised Statutes suggests or implies that the Director has  
20 any authority to treat a newly added debilitating disease or medical condition any different  
21 from the debilitating conditions listed in the original Act. Indeed, the language of Section  
22 36-2801 suggests the opposite:

23 3. "Debilitating medical condition" means one or more of the following:

24 (a) Cancer, glaucoma, positive status for human immunodeficiency virus, acquired immune  
25 deficiency syndrome, hepatitis C, amyotrophic lateral sclerosis, crohn's disease, agitation of  
26 alzheimer's disease or the treatment of these conditions.

(b) A chronic or debilitating disease or medical condition or its treatment that produces one  
or more of the following: cachexia or wasting syndrome; severe and chronic pain; severe

1 under the US or Arizona constitutions – Due Process, Equal  
2 Protection, Right of Privacy.

3  
4 NOTICE OF APPEAL/REQUEST FOR SPECIAL ACTION

5  
6 15. Proposition 203, commonly known as the Arizona Medical Marijuana Act  
7 (“AMMA”) was adopted by the voters in November 2010, and signed by the Governor  
8 in December, 2010. It was codified as Title 36, Chapters 28.1, et. seq. The purpose of  
9 the Act *“is to protect patients with debilitating medical conditions, as well as their*  
10 *physicians and providers, from arrest and prosecution, criminal and other penalties*  
11 *and property forfeiture if such patients engage in the medical use of marijuana.”*

12 16. ARS Section 36-2801.1 provides as follows:

13 36-2801.01. Addition of debilitating medical conditions

14 (Caution: 1998 Prop. 105 applies)

15 “The public may petition the department to add debilitating medical conditions or treatments to the list of  
16 debilitating medical conditions set forth in section 36-2801, paragraph 3. The department shall consider  
17 petitions in the manner required by department rule, including public notice and hearing. The department  
18 shall approve or deny a petition within one-hundred-eighty days of its submission. The approval or denial of  
19 a petition is a final decision of the department subject to judicial review pursuant to title 12, chapter 7,  
20 article 6. Jurisdiction and venue are vested in the superior court.”(Emphasis Added).

21 17. Similarly, the relevant Arizona Administrative Code, AAC Rule R9-17-106 provides in pertinent part  
22 as follows:

23 “Within 180 calendar days after receiving the request: a. Add the medical condition to the list of  
24 debilitating medical conditions, or b. Provide written notice to the requester of the Department’s decision  
25 to deny the request that includes:

26 i. The specific reasons for the Department’s decision; and

ii. The process for requesting judicial review of the Department’s decision pursuant to A.R.S.  
Title 12, Chapter 7, Article 6.” (Emphasis Added).

18. Neither the statute nor the rule provide the Director with any authority to delay  
implementation nor add discriminatory conditions for newly added qualifying  
debilitating conditions. In so doing, the Director is attempting to modify a statutory  
provision, i.e. ARS 36-2801(18) by essentially inserting additional language solely

1 nausea; seizures, including those characteristic of epilepsy; or severe and persistent muscle  
2 spasms, including those characteristic of multiple sclerosis.

3 (c) Any other medical condition or its treatment added by the department pursuant to section  
4 36-2801.01. (Emphasis Added)

5 21. The Director is also misinformed when it comes to the legal distinction between a patient  
6 receiving a “therapeutic” benefit versus a “palliative” benefit as his Decision suggests.

7 Even cursory review of AAC R9-17-106 shows that both are treated with equal dignity as  
8 the usage is clearly in the disjunctive “or”, and no further distinction is made between the  
9 two.

10 22. ARS Section 12-910 specifically provides this Court with the authority to “modify” the  
11 agency action. ARS 12-910(E). Alternatively, the Court is asked to treat this pleading  
12 as a Request for Special Action pursuant to Arizona Statutes and Court Rules  
13 pertaining to Special Actions, essentially affirming the Director’s Decision to Add  
14 PTSD, but (1) striking the additional conditions imposed on a PTSD sufferer, as more  
15 fully described herein, in the form of a writ of prohibition, and (2) ordering the  
16 immediate implementation of the decision, in the form of a writ of mandamus, or such  
17 other and further relief as this Honorable Court deems just and proper. Further,  
18 Heather Manus, RN, President of AZCNA, is also listed as an individual “Plaintiff”  
19 herein for the purpose of the Special Action, if necessary. Excerpts of Ms. Manus’  
20 testimony are included in the ALJ Decision, p. 6 - 7, paragraphs 35 through 49,  
21 inclusive. Ms. Manus would further testify that her pre-dominant reason for using  
22 medical marijuana is for the treatment of her PTSD v. chronic pain condition; that she  
23 intends to qualify for PTSD condition upon renewal of her certification; that  
24 conventional therapy caused her significant harm (as set forth in Judge Shedden’s  
25 findings), and that she should not be required to undergo “conventional” treatment as a  
26 condition for obtaining a certification for her PTSD condition.

1 23. Pursuant to ARS Section 12-910(E), the Court may modify by the Director's Decision  
2 by modifying the Decision to order immediate implementation and vacating the  
3 offending portions if it "concludes" that the same are "not supported by substantial  
4 evidence, is contrary to law, is arbitrary and capricious or is an abuse of discretion".

5 Id.

6 24. A Summary of the events leading to the Administrative Law Judge Decision and the  
7 subsequent Decision by the AZDHS to add PTSD as a debilitating condition to  
8 AMMA is attached as Exhibit "4" and incorporated by reference as though fully set  
9 forth herein. The relevant statutes and rules are set forth in Exhibit "5" for the  
10 convenient reference by the Court.

11 25. After the Director's Decision was issued, your undersigned counsel wrote to Mr. Falls,  
12 AZDHS' counsel, and requested that the Director re-consider his decision and remove  
13 or modify the offending provisions of the Decision, and implement the Decision no  
14 later than August 15, 2014. A true and correct copy of the Mr. Sobel's letter dated  
15 July 11, 2014, is attached hereto as Exhibit "3" and incorporated herein as though fully  
16 set forth at length. The AZDHS summarily rejected the request.

17 26. ARS Section 12-348 provides for an award of fees and expenses against a state agency  
18 if the AZCNA is the prevailing party. ARS 12-348(C)(3). In light of the  
19 Department's refusal to re-consider its position, as requested by Mr. Sobel, the Court  
20 should view the situation in the context that the AZCNA had no other choice but to  
21 appeal.

22 27. The issues, as framed in this Appeal, are essentially a matter of law. The only  
23 documents needed to resolve the legal issue include the Decision of the Administrative  
24 Law Judge (Exhibit "1") and the Decision of the Director of AZDHS (Exhibit "2").

25 28. Pursuant to ARS Section 12-910(A), "[a]n action to review a final administrative  
26 decision shall be heard and determined with convenient speed." The unrefuted

1 evidence presented during the ALJ Hearing proved that (1) More than 500,000 Arizona  
2 residents suffer from PTSD; (2) PTSD is incurable; (3) PTSD is an epidemic among  
3 returning veterans – more than 30% of those returning suffer from PTSD – and 22  
4 veterans per day are committing suicide. It is well known that the Phoenix VA is the  
5 poster-child for abuse or neglect when it comes to treating our returning war heroes.  
6 The effect of the Director’s Decision would potentially require a returning Vet to “wait  
7 in line” for 6 -10 months at the Phoenix VA before getting “conventional” treatment  
8 for an incurable disease. In contrast, a patient diagnosed with cancer (a listed  
9 condition under AMMA) would not have to prove that he/she is undergoing  
10 “conventional” treatment in order to qualify for a patient card.

11 29. As the Director had no authority to limit the addition of PTSD to the list of  
12 debilitating conditions, and the latter has the additional problem of violating a  
13 patient’s and physician’s constitutional rights, the Director’s Decision – as it relates  
14 to the delay and the “add-on” – is not supported by substantial evidence, or is  
15 contrary to law, or arbitrary and capricious, or is an abuse of discretion.

16  
17 WHEREFORE, Appellant respectfully requests relief, as follows:

- 18 1. For Modification of the Director’s Decision by striking the “Further Orders”  
19 commencing at page 11, lines 21 – 27, inclusive, and page 12, lines 1 – 23,  
20 inclusive;
- 21 2. For An Order Directing that Adding PTSD be implemented immediately;
- 22 3. For An Evidentiary Hearing to be scheduled within 15 days of the filing of this  
23 Notice of Appeal/Request for Special Action;
- 24 4. That at said Evidentiary Hearing, the AZDHS be Ordered to Show Cause Why  
25 the Relief Should Not Be Granted, i.e. requiring AZDHS to show what authority,  
26

1 if any, it has to delay implementation or impose additional requirements on PTSD  
2 patients, as more fully discussed herein;

3 5. Alternatively, if this Court determines that such issues are properly decided as a  
4 Special Action, that the Court issue orders consistent with the relief prayed for  
5 above;

6 6. For Attorney's Fees and Costs, subject to proof;

7 7. Such other or further relief as this Honorable Court deems just and proper  
8

9 DATED this 18<sup>th</sup> day of August, 2014

10 LAW OFFICES OF KEN SOBEL

11 By: 

12 Ken Sobel, Esq. (Bar No. 06551)  
13 Attorney for Appellant/Plaintiff

14  
15 Original Filed with the Maricopa Superior  
16 Court on August 13, 2014

17 Copy of the Foregoing served Via Certified  
18 Mail on August 17, 2014, to:

19 Clerk of the Arizona Department of Health  
20 Services, 1740 West Adams, Room 203  
Phoenix, Arizona 85007

21 William Humble, Director  
22 Arizona Department of Health Services  
23 150 North 18<sup>th</sup> Avenue  
Phoenix, Arizona 85007

24 Gregory W. Falls, Esq., Sherman &  
25 Howard, LLC, Attorney for Appellee  
26 Arizona Department of Health Services, and  
Will Humble, Director of AZDHS,

201 E. Washington Street, Suite 800,  
Phoenix, AZ 85004-2327

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26

AZCNA & MANUS v. AZDHS

Appeal/Request for Special Action

EXHIBITS

---

**EXHIBIT "1"**

**FILED**

JUN 4 - 2014

**IN THE OFFICE OF ADMINISTRATIVE HEARINGS**

ADHS/Clerk of the Department  
Administrative Counsel

In the Matter of:

No. 2014A-MMR-0254-DHS

Arizona Cannabis Nurses Association,

Appellant.

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**HEARING:** March 26, May 13, 14 and 15, 2014

**APPEARANCES:** Kenneth A. Sobel, Esq. for Appellant; Gregory W. Falls, Esq.  
and Matthew A. Hesketh, Esq. for the Department of Health Services

**ADMINISTRATIVE LAW JUDGE:** Thomas Shedden

**FINDINGS OF FACT**

1. On January 29, 2014, the Arizona Department of Health Services ("Department") issued a Notice of Hearing setting the above-captioned matter for hearing at 1:00 p.m. March 26, 2014, at the Office of Administrative Hearings in Phoenix, Arizona.

2. The Notice of Hearing provides that the hearing was set to consider the appeal of the Department's January 14, 2014 denial of the petition to add Post Traumatic Stress Disorder ("PTSD") to the list of debilitating medical conditions set forth in ARIZ. REV. STAT. section 36-2801(3).<sup>1</sup>

<sup>1</sup> Ariz. Rev. Stat. section 36-2801.01 shows that the "denial of a petition is a final decision of the [D]epartment subject to judicial review pursuant to [ARIZ. REV. STAT.] title 12, chapter 7, article 6. Jurisdiction and venue are vested in the superior court." Consequently, the undersigned Administrative Law Judge issued an Order directing the parties to file memoranda addressing the Office of Administrative Hearings' ("OAH") jurisdiction to hear this appeal

The Department filed a memorandum asserting that the OAH has jurisdiction to hear the appeal. Appellant did not file a memorandum. In light of the Department's position, the matter was convened for hearing as scheduled.

Office of Administrative Hearings  
1400 West Washington, Suite 101  
Phoenix, Arizona 85007  
(602) 542-9826

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30

3. Appellant Arizona Cannabis Nurses Association presented the testimony of its president Heather Manus, R.N., Richard Strand, M.D., Edith Lynn Edde, D.O., Gina Mecagni, M.D., Ricardo Pereyda, and Lezli Engelking

4 The Department presented the testimony of its Deputy Director Cara Christ, M.D. and Doug Campos-Outcalt, M.D.

5 On July 25, 2013, the Department received Appellant's Petition to add PTSD to the list of debilitating conditions for which medical marijuana may be dispensed.

6 The Department determined that the Petition contained the information required by ARIZ. ADMIN. CODE section 9-17-106(A).

7 The Department is required to hold a public hearing on petitions for which the petitioner has provided evidence that: (1) the medical condition impairs a sufferer's ability to accomplish the activities of daily living; and (2) marijuana usage provides a palliative benefit to an individual suffering from the medical condition. For petitions that do not meet these requirements, the Department is required to provide the petitioner the specific reason for the Department's determination and to provide the petitioner with information on obtaining judicial review of the Department's decision. ARIZ. ADMIN. CODE § 9-17-106(B).

8 The Department's Medical Advisory Committee ("Committee") evaluated the Petition and voted to set the Petition for a public hearing.

9 The Department notified Appellant that the Petition would be set for a public hearing, which was conducted on October 29, 2013<sup>2</sup>

10 At the instant hearing, Dr. Christ testified that the Committee voted to hold a public hearing on the Petition even though the Department had determined that Appellant's Petition did not show that marijuana has a palliative effect on PTSD. At the hearing, the Department acknowledged that by setting the Petition for public hearing it had not properly followed the rules, but Appellant agreed to waive any objection.

11 At the public hearing, the Department accepted public comments and it accepted additional scientific articles related to marijuana's effect on PTSD. The

1 Department also accepted written public comments, including comments through an  
2 internet portal.

3 12. The Department received about 700 public comments supporting the effort  
4 to add PTSD to the list of debilitating conditions, with only two comments opposing the  
5 addition. Most of the comments were from PTSD sufferers or their family members who  
6 have experienced or seen that marijuana alleviates the symptoms of PTSD.

7 13. After the public hearing, the Department had the University of Arizona's  
8 College of Public Health (the "U of A") conduct an evidence review of the medical  
9 literature regarding the benefits and harms of marijuana for treatment of PTSD. The U  
10 of A had conducted a similar evidence review in 2012 and its 2013 review was  
11 prepared as an update of the 2012 review

12 14. In December 2013, the U of A produced a report entitled "Medical  
13 Marijuana for the Treatment of Post-Traumatic Stress Disorder" summarizing its  
14 findings (the "2013 Report") Dr. Campos-Outcalt was the principal  
15 investigator/reviewer and the author of both the 2012 Report and the 2013 Report.

16 15. Dr. Campos-Outcalt conducted his reviews by searching medical  
17 databases for articles reporting on studies of adults with PTSD. The search was  
18 restricted to English language studies only. A complete list of the search terms is  
19 provided in Exhibits C (2013 Report) and D (2012 Report).

20 16. Dr. Campos-Outcalt determined that only six studies met all the required  
21 search criteria, whereas eighty-eight did not.<sup>3</sup>

22 17. Dr. Campos-Outcalt assessed the quality of the six studies that met all the  
23 search criteria. Dr. Campos-Outcalt's assessment was based on both the type of study  
24 (e.g., randomized controlled trial; case series) and by reference to generally accepted  
25 principles for the evaluation of scientific studies. See Exhibit C, Appendices 2  
26 (Taxonomy of study designs) and 3 (GRADE Method to assess overall quality of  
27  
28

29 <sup>2</sup> Petitions to add two other conditions were considered at the same public hearing.

30 <sup>3</sup> Exhibit C at Tables 1 and 2 provide Dr. Campos-Outcalt's assessment of the six studies meeting the search criteria and a listing of the studies that did not meet those criteria.

evidence); and Exhibits L (Quality Rating Criteria for Case Control Studies) and M (Quality Rating Criteria for Cohort Studies).<sup>4</sup>

18. After receiving the 2013 Report, the Committee determined that because marijuana has not been subjected to any high quality, scientifically controlled testing in humans, there was a lack of evidence to support adding PTSD to the list of debilitating conditions. Consequently, the Committee recommended that the Department's Director deny Appellant's Petition.

19. In its recommendation, the Committee also wrote that there was a growing body of evidence concerning the potential effects of cannabinoids on PTSD that raised valid clinical questions that need to be investigated. They went on to write that given this evidence and that several states have approved medical marijuana for PTSD, the Committee hoped that a randomized, controlled study might be conducted to further investigate this question.

20. Dr. Christ testified that the Committee did not intend its comments to be read as requiring that marijuana be tested in humans or that only randomized, controlled trials would meet the applicable rule. Dr. Christ further explained that the language regarding randomized, controlled studies was added to the Committee's recommendation in an effort to support research being proposed by Dr. Sue Sisley.

21. Eleven states have approved medical marijuana for the treatment of PTSD.

22. In a letter dated January 14, 2014, the Department's Director informed Appellant that its Petition had been denied because there was insufficient evidence to support adding PTSD to the list of debilitating medical conditions.

#### Dr. Christ's Testimony

23. The Director's decision to deny Appellant's Petition was based on the Department's determination that Appellant had not demonstrated that marijuana provides a palliative benefit to people suffering from PTSD.

24. The Committee agreed that PTSD is a condition that impairs the sufferer's ability to accomplish the activities of daily living.

<sup>4</sup> Similar Quality Rating Criteria exist for other types of studies.

1 25. The Committee was unanimous in its decision to recommend that  
2 Appellant's Petition be denied.

3 26. Dr. Christ testified that the six articles that Dr. Campos-Outcalt determined  
4 met the applicable search criteria were not persuasive because the articles were not of  
5 sufficient quality or did not actually show that marijuana had a palliative benefit to  
6 PTSD sufferers.<sup>5</sup>

7 27. The Committee consists of eleven doctors (all M.D.s), with Dr. Christ  
8 serving as its chair. These doctors have diverse backgrounds covering many  
9 disciplines.

10 28. Many of the Department's decisions are based on scientific or medical  
11 evidence using the same method that was applied to Appellant's Petition. The  
12 Committee holds regular meetings and it provides advice to the Director on issues in  
13 addition to Petitions for the listing of debilitating conditions.

14 29. Dr. Christ testified that the Department errs on the side of holding a public  
15 hearing rather than rejecting petitions that may not meet the applicable rules because  
16 holding a public hearing allows more evidence to be considered.

17 30. The Department wants to be careful before adding any new debilitating  
18 conditions to the list because there is no method to take a condition off that list

19 31. Dr. Christ was of the opinion that the Committee has a good balance of  
20 doctors, whereby some are pro-medical marijuana, some against it, and some who  
21 want to see the evidence.

#### 22 Dr. Campos-Outcalt's Testimony

23 32. Dr. Campos-Outcalt testified as to the methods he used to locate and  
24 assess studies related to marijuana and PTSD and as to the strengths and weaknesses  
25 of various types of studies. Dr. Campos-Outcalt also provided his opinion as to the  
26 quality of each of the six studies that met all the search criteria.

27  
28  
29  
30 <sup>5</sup> Dr. Christ's opinion was that synthetic cannabinoids do not meet the definition of marijuana.

1 33. Dr. Campos-Outcalt's role was limited to locating and assessing these  
2 studies and he did not participate in the Department's decision to deny Appellant's  
3 Petition.<sup>6</sup>

4 34. Dr. Campos-Outcalt did testify however, that the standards used in  
5 evidence based research were not necessarily those used to develop clinical  
6 guidelines for standard-of-care determinations. According to Dr. Campos-Outcalt, the  
7 preference is to have complete evidence, but there are times when standard-of-care  
8 determinations are made on incomplete evidence with those determinations subject to  
9 change as more evidence becomes available.

10 Ms. Manus's Testimony

11 35. About thirteen years ago, Ms. Manus was attacked and almost killed,  
12 resulting in her suffering from PTSD. For five years, Ms. Manus took a "cocktail" of  
13 prescription pharmaceuticals that had side effects including a loss of sex drive and  
14 leaving her in a "zombie-like" state. These side effects ruined her marriage and left her  
15 unable to properly care for her children. Ms. Manus cannot recall years of her children's  
16 lives from the time of her "zombie-like blackouts."

17 36. Ms. Manus made multiple suicide attempts, which would cause her  
18 doctor to increase her prescription-drug dosages.

19 37. Ms. Manus went online where she learned that one of these prescription  
20 drugs (Zoloft) carried a warning showing that it increased the risk of suicide. She then  
21 decided to get off the prescription drugs, which she did.

22 38. Ms. Manus uses medical marijuana for chronic pain and that usage  
23 effectively eliminates much of her anxiety and "releases [the] stresses" her attack left  
24 her with, including a fear of men and anxiety in social settings. The medical marijuana  
25 allows her to function, whereas on the prescription medications, she could not get out  
26 of bed.

27 39. Ms. Manus provided credible testimony that medical marijuana changed  
28 her life for the better and that it has relieved her PTSD symptoms.

29 \_\_\_\_\_  
30 <sup>6</sup> Dr. Campos-Outcalt was present at the Committee meeting during which the Petition was considered,  
but solely to answer any questions the members may have had regarding his work.

1 40. Ms. Manus wants others who suffer from PTSD, especially veterans, to be  
2 able to receive the same benefit that she has received.

3 41. After learning about the side effects of the prescription drugs she was  
4 taking, Ms. Manus went to nursing school and in 2009 became a registered nurse.

5 42. Ms. Manus worked as a home-health nurse, where she had patients who  
6 used marijuana to treat their PTSD. Ms. Manus's clinical experience shows that  
7 marijuana helps with the symptoms of PTSD.

8 43. Ms. Manus's opinion was that the best way to determine whether a drug  
9 has a palliative effect is to hear from the patients who are using the drug. Ms. Manus  
10 often hears from PTSD sufferers who have found that marijuana provides them a  
11 palliative benefit.

12 44. Ms. Manus's opinion was that the comments received by the Department  
13 are important in showing that marijuana provides a palliative benefit those suffering  
14 from PTSD.

15 45. Ms. Manus's opinion was that researchers accept that marijuana provides  
16 a benefit to PTSD sufferers and are focusing their studies on determining why it works,  
17 with a particular focus on the effect of marijuana on biochemical pathways.

18 46. Ms. Manus is the medical director for a dispensary in New Mexico, which  
19 requires her to stay informed about medical-marijuana issues and current research.

20 47. Since 2009, medical marijuana has been approved in New Mexico for  
21 patients with PTSD, and in 2013, by a unanimous vote New Mexico's medical advisory  
22 board denied a petition to remove PTSD from the approved list.

23 48. Through her work in New Mexico, Ms. Manus has spoken to members of  
24 the state's medical advisory board and other nurses, and she knew of no adverse  
25 outcomes from the use of medical marijuana in New Mexico.

26 49. Ms. Manus acknowledged that the sativa strain of marijuana might cause  
27 anxiety in a PTSD sufferer, whereas the indica strain does not have that affect.

28 Dr. Strand's Testimony

29 50. Dr. Strand completed medical school in 1969 and his residency in 1974.  
30 He was the Chairman of the United States Track & Field Substance Abuse, Education

1 and Testing Committee from 1992 to 2000, and a member of the United States Olympic  
2 Team Medical Staff during the 2000 Olympics.

3 51. Dr. Strand's daughter is an anesthesiologist who recommends medical  
4 marijuana for patients with chronic pain and it works for that condition.

5 52. Dr. Strand, with some other doctors, took part in Arizona's lottery for a  
6 dispensary license, but they were not selected.

7 53. PTSD is common and any stressful event can cause it. Most people get  
8 over the stressful event, which Dr. Strand characterized as extinguishing the "toxic"  
9 memory. Those who do not extinguish these memories can suffer a physical or  
10 emotional response to an inappropriate stimulus at a later time.

11 54. Dr. Strand's review of the medical literature shows that pharmacological  
12 treatments for PTSD are not effective for everyone. Selective serotonin reuptake  
13 inhibitors ("SSRI") such as Zoloft or Paxil can help, but these have side effects  
14 including grogginess and effects on sexual performance. Anti-anxiety medications can  
15 also be helpful. But these types of medications can lead to increased suicidal ideations,  
16 and there is risk of overdosing.

17 55. There have been studies on the toxicity of marijuana, and there are no  
18 reported cases of overdosing on marijuana, so it is safe from that stand point. And, in  
19 New Mexico over 3000 PTSD sufferers have used medical marijuana without any  
20 reported adverse effects.

21 56. Dr. Strand's opinion was that medical marijuana "definitely" has a  
22 palliative benefit for PTSD sufferers, which is supported by his review of the recent  
23 medical literature on this issue. Dr. Strand acknowledged however that marijuana may  
24 not have a palliative benefit for all PTSD sufferers and that "conventional" medicine  
25 may work for some PTSD sufferers.

26 57. Dr. Strand also testified that marijuana also may have a therapeutic effect  
27 by helping to extinguishing "toxic" memories and that recent research is showing that  
28 the endocannabinoid system may have an important role in the extinction of toxic  
29 memories.

1 58. Dr. Strand's opinion was that medical marijuana is reasonably safe,  
2 especially when compared to the prescription drugs that are currently being used to  
3 treat PTSD

4 59. Dr. Strand acknowledged that there are risks associated with marijuana  
5 use, but he added that over thousands of years, millions of people have used marijuana  
6 and these people are not "dropping dead," whereas the need of PTSD sufferers is  
7 great

8 Dr. Edde's Testimony

9 60. Dr. Edde practiced in the area of neonatology and was an Assistant  
10 Professor of Pediatrics at the University of Arizona until 2011. While at the University,  
11 she conducted plant research, taught, and worked as a clinician.

12 61. Dr. Edde had reviewed the studies about which Dr. Campos-Outcalt  
13 testified and she has done additional research on PTSD.

14 62. Dr. Edde testified at the Department's public hearing, but was allotted only  
15 two minutes for her testimony.

16 63. Dr. Edde's opinion was that a palliative benefit may be seen by past  
17 experience, medical journals, and the patients' reports. For any medication, the doctor  
18 needs to listen to the patient and change what does not work, but keep doing what  
19 does work.

20 64. Dr. Edde's opinion was that the public comments received by the  
21 Department are evidence that marijuana provides a palliative benefit to those with  
22 PTSD and that these comments are of sufficient quality that a doctor would use them.

23 65. Dr. Edde's opinion was that marijuana provides a palliative benefit for  
24 PTSD and that it is safe and effective. But each person is unique, so it varies from  
25 patient to patient.

26 66. According to Dr. Edde, risk versus benefit is huge in medicine, which is  
27 especially true for an intensivist such as herself: either something works or it does not  
28 work. Neonatology is based on doing what works and there was not time to get studies  
29 done. A neonatologist cannot go to the lab first, because the baby will die while waiting  
30 for results – they see what works and the controlled studies come later.

1 67 Dr. Edde testified that generally the studies are showing that there is a  
2 benefit to the use of marijuana for PTSD and that the benefit outweighs the risks.

3 68. Dr. Edde was of the opinion that it is not known why marijuana is effective  
4 for PTSD sufferers. Most of the current research work is looking at bio-pathways and  
5 the trending information shows that this will explain why marijuana works.

6 69. Dr. Edde was of the opinion that the Committee should not have excluded  
7 studies conducted on animals because, although going from a mouse to man is a huge  
8 leap, essentially all medical research proceeds along this path and you will not get to  
9 man if you do not first look at the mouse.

10 70. Dr. Edde's opinion was that PTSD should be added to the list of  
11 debilitating conditions. The risk is rather low and marijuana is safe and effective when  
12 compared to the medications that are now being used to treat PTSD.

13 Dr. Mecagni's Testimony

14 71. Dr. Mecagni has been an emergency room doctor for the last ten years  
15 and she is also the Medical Director for a marijuana dispensary.

16 72. There is an epidemic of PTSD among veterans. PTSD is a "horrible"  
17 mental illness and the risk extends to the community because PTSD can lead to  
18 violence.

19 73. There are only two FDA approved treatments for PTSD, sertraline (Zoloft)  
20 and Paxil, all other treatments, including benzodiazepines, are off-label uses. All of  
21 these drugs have bad side effects including a risk of suicide, and Zoloft does not  
22 appear to work, especially with combat-related PTSD

23 74. Marijuana is a safe plant that does not affect the brain stem so the  
24 respiratory system is not affected. There are no reported marijuana overdoses leading  
25 to death and there is nothing showing that the risk of suicide goes up. Marijuana's side  
26 effects are benign, but the sativa strain is not a good choice for PTSD sufferers.

27 75 Dr. Mecagni has done research on the cellular biology of the  
28 endocannabinoid system (how it works) and on the experiential, observational studies  
29 of marijuana in the general population.

1 76. There are receptors in the hippocampus that control, or are related to, the  
2 fight-or-flight response. PTSD comes about from maladaptive responses to the flight-or-  
3 fight stimuli and with memory retrieval and dealing with stressful situations. The  
4 endocannabinoid system is connected to this part of the brain's neurochemistry and is  
5 active in memory retrieval and retention.

6 77. Dr. Mecagni agreed that whether marijuana works for those with PTSD is  
7 not in question and that how it works is the focus of research. Her opinion was that the  
8 current research shows that the endocannabinoid system is involved with the aberrant  
9 pathways that develop with PTSD in response to stress and that exogenous  
10 cannabinoid mitigates that effect.

11 78. Dr. Mecagni's opinion is that marijuana is safe and that, to a reasonable  
12 degree of scientific and medical certainty, observational studies show it is effective for  
13 the treatment of PTSD.

14 79. As a clinician Dr. Mecagni agrees that double blind studies are the best  
15 evidence, but there are none for marijuana. Moreover, off-label drug uses are not  
16 based on double blind studies, but rather are based on observations showing that the  
17 drug is effective for the off-label condition.

18 Mr. Pereyda's Testimony

19 80. Mr. Pereyda is a combat veteran of the United States Army, having served  
20 as a military policeman in Iraq.

21 81. Mr. Pereyda suffers from PTSD and other maladies including chronic pain.  
22 Mr. Pereyda holds a patient's qualifying card that was issued based on his chronic  
23 pain.

24 82. Mr. Pereyda had used medical marijuana every day in the four years prior  
25 to the hearing and found that using medical marijuana alleviated his PTSD and that it  
26 "helped tremendously."

27 83. Prior to his use of medical marijuana, Mr. Pereyda used prescription  
28 medications for his PTSD, including vallium, Xanax, and Paxil. These prescription drugs  
29 did not alleviate his symptoms and they had side effects that he found to be  
30 unpleasant, including lethargy and reduced libido

1 84. Mr. Pereyda had been "hooked" on these pills, but since he started using  
2 medical marijuana he no longer uses the prescription drugs.

3 85. Mr. Pereyda acknowledged that he still has some issues related to his  
4 PTSD and that he has suffered panic attacks since he started using medical marijuana,  
5 but these attacks are less frequent and less severe than those that he previously  
6 experienced

7 86. Mr. Pereyda has not suffered any side effects from his medical marijuana  
8 use

9 87. Mr. Pereyda knows other veterans with PTSD for whom medical marijuana  
10 has been a tremendous help.

11 Ms. Engelking's Testimony

12 88. Ms. Engelking is the executive director of the Bloom Dispensary.

13 89. Ms. Engelking was a pharmaceutical sales rep for about thirteen years,  
14 during which time she interacted with over 600 doctors' offices.

15 90. Ms. Engelking testified as to the dangers of prescription medications and  
16 the operations at Bloom Dispensary.

17 CONCLUSIONS OF LAW

18 1 Appellant bears the burden of proof and the standard of proof on all  
19 issues in this matter is that of a preponderance of the evidence. ARIZ. ADMIN. CODE § 2-  
20 19-119.

21 2 A preponderance of the evidence is:

22 The greater weight of the evidence, not necessarily established by the  
23 greater number of witnesses testifying to a fact but by evidence that  
24 has the most convincing force; superior evidentiary weight that, though  
25 not sufficient to free the mind wholly from all reasonable doubt, is still  
26 sufficient to incline a fair and impartial mind to one side of the issue  
27 rather than the other.

28 BLACK'S LAW DICTIONARY 1301 (9<sup>th</sup> ed. 2009).

29 3. "A [rule] is to be given such an effect that no clause, sentence or word is  
30 rendered superfluous, void, contradictory or insignificant." *Guzman v. Guzman*, 175  
Ariz. 183, 187, 854 P.2d 1169,1173 (App. 1993); *Gutierrez v. Industrial Commission of*

1 Arizona, 226 Ariz. 395, 249 P.3d 1095 (2011)(statutes and rules are construed using  
2 the same principles)

3 4. Among other things, a petitioner to add a new condition must provide the  
4 Department with:

5 6. A summary of the evidence that the use of marijuana will provide  
6 therapeutic or palliative benefit for the medical condition or a treatment  
7 of the medical condition; and

7 7. Articles, published in peer-reviewed scientific journals, reporting the  
8 results of research on the effects of marijuana on the medical condition  
9 or a treatment of the medical condition supporting why the medical  
10 condition should be added.

10 ARIZ. ADMIN. CODE § 9-17-106 (A).

11 5. The Department's determination that Appellant did not show that  
12 marijuana usage provides a palliative benefit to those who suffer from PTSD was based  
13 on its review of peer-reviewed articles. By limiting its evaluation to those articles, the  
14 Department has interpreted the applicable rules in a manner that leaves ARIZ. ADMIN.  
15 CODE section 9-17-106(A)(6) with no significance. Consequently, the Department's  
16 interpretation of the rule is not valid.

17 6. At the hearing, there was substantial evidence showing that PTSD  
18 sufferers receive a palliative benefit from marijuana use. There was also substantial  
19 evidence showing that medical professionals rely on patients' feedback when  
20 determining the appropriate treatments and that the practice of off-label prescribing is  
21 predicated on such feedback. In addition, Drs. Strand, Edde and Mecegni, and Ms.  
22 Manus all provided credible testimony showing medical marijuana provides a palliative  
23 benefit to PTSD sufferers.<sup>7</sup>

24 7. The preponderance of the evidence shows that marijuana use provides a  
25 palliative benefit to those suffering from PTSD.

26 8. Consequently, Appellant's appeal should be granted and PTSD should be  
27 added to the list of debilitating conditions for which marijuana may be dispensed.  
28

29 <sup>7</sup> Although Dr. Sisley did not testify, in a video clip admitted into evidence, she expressed her opinion  
30 that marijuana has a palliative benefit for PTSD sufferers.

**ORDER**

1  
2 **IT IS ORDERED** that Appellant's appeal is granted and that PTSD is added to  
3 the list of debilitating conditions for which marijuana may be dispensed  
4 *In the event of certification of the Administrative Law Judge Decision by the Director of*  
5 *the Office of Administrative Hearings, the effective date of the Order will be five days*  
6 *after the date of that certification.*

7 Done this day, June 4, 2014.

8 /s/ Thomas Shedden  
9 Thomas Shedden  
10 Administrative Law Judge

11 Transmitted electronically to:

12 William Humble, Director  
13 Arizona Department of Health Services  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30

AZCNA & MANUS v. AZDHS

Appeal/Request for Special Action

EXHIBITS

---

**EXHIBIT "2"**

1 BEFORE THE DIRECTOR OF THE

2 ARIZONA DEPARTMENT OF HEALTH SERVICES

3  
4 In the Matter of:

5 ARIZONA CANNABIS NURSES  
6 ASSOCIATION,

7  
8 Appellant

) Case No.: 2014A-MMR-0254-DHS

)  
)  
)  
) DECISION  
)  
)  
)  
)  
)

9  
10  
11  
12 **PURSUANT TO** the authority granted to me by Arizona Revised Statutes (A.R.S.) § 41-  
13 1092 08(B), and in accordance with the above-referenced matter, and

14  
15 **IN CONSIDERATION OF** this proceeding, and the recommended decision of the  
16 administrative law judge, Thomas Shedden, I hereby make the following decision

17 **NOW, THEREFORE,** in that the findings of fact of the appointed administrative law  
18 judge, received on June 4, 2014, and incorporated herein by reference, are supported by the  
19 greater weight of the credible evidence and they are hereby **ADOPTED** except as amended

20  
21 **NOW, FURTHER,** in that conclusions of law numbers 1 through 4, 7, and 8 of the  
22 appointed administrative law judge, received on June 4, 2014, and incorporated herein by  
23 reference, are supported by the greater weight of the credible evidence, are legally correct, and  
24 they are hereby **ADOPTED** except as amended

25  
26 **NOW, FURTHER,** in that conclusions of law numbers 5 and 6 of the appointed  
27 administrative law judge, received on June 4, 2014, and incorporated herein by reference, are not  
28

1 supported by the greater weight of the credible evidence, are not legally correct, and they are  
2 hereby **REJECTED**

3 **NOW, FURTHER**, in that the recommended decision of the appointed administrative  
4 law judge, received on June 4, 2014, and incorporated herein by reference, is supported by the  
5 greater weight of the credible evidence, is legally correct, and is hereby **ADOPTED** except as  
6 amended  
7

### 8 **FINDINGS OF FACT**

9 Page 2, Findings of Fact, number 6, lines 9 and 10, delete the text after "contained the"  
10 and add the following:

11 components specified in Arizona Administrative Code ("A A C")  
12 R9-17-106(A)(1) through (A)(7). The Department's review for  
13 administrative completeness of the components submitted for a  
14 petition is liberal. Dr. Christ's testimony, Audio Hearing Record,  
15 May 13, 2014, at 4:51 to 4:54; 5:58 to 6:00. Locations on the  
16 Audio Hearing Record are given in hours and minutes.  
17

18 This deletion and addition are made to avoid a conclusory finding on the issue for  
19 determination  
20

21 Page 2, Findings of Fact, number 7, line 14, before "palliative" add "therapeutic or" to  
22 correct an omission  
23

24 Page 2, Findings of Fact, number 7, line 14, after "condition." add "A.A.C. R9-17-  
25 106(B)(2)." to add the applicable citation

26 Page 2, Findings of Fact, number 7, line 15, delete "meet these requirements" and add  
27 "provide evidence specified in A.A.C. R9-17-106(B)(2)" to make a technical change.  
28

1 Page 2, Findings of Fact, number 8, lines 19 and 20, delete the text and add the

2 following:

3 The Department's Medical Advisory Committee ("Committee")  
4 initially discussed Appellant's Petition at a meeting before the  
5 public hearing took place; one-half of the Committee felt that  
6 Appellant's Petition did not meet the conditions for going forward  
7 with a public hearing. However, the Department scheduled a  
8 public hearing on Appellant's Petition in order to get more  
9 information. The Committee also discussed Appellant's Petition at  
10 a meeting after the public hearing took place. Testimony of Dr.  
11 Christ, Audio Hearing Record, May 13, 2014, 6:19 to 6:21

14 This deletion and addition are made for consistency with the record

15 Page 2, Findings of Fact, number 10, lines 23 to 25, delete the first sentence as  
16 inconsistent with Findings of Fact, number 10 as amended herein.

17 Findings of Fact, number 10, line 27, after "objection" add the following:

18 Notwithstanding Appellant's waiving any objection, it cannot be  
19 shown that affording the Appellant and the public an opportunity  
20 for in-person comment on and presentation of additional  
21 information for Appellant's Petition caused, or could have caused,  
22 any harm  
23

24 This addition is made for clarification

25 Page 3, Findings of Fact, number 13, line 11, after "the 2012 review" add the following:  
26  
27  
28

1 The record established that the U of A fully searched a new  
2 database, which had not been available for the 2012 evidence  
3 review

4 This addition is made for consistency with the record.

5 Page 4, Findings of Fact, number 20, lines 14 to 16, delete the first sentence and add the  
6 following:  
7

8 The record established that Dr Christ's recommendation letter to  
9 the Director just states what the Committee recommended: that  
10 marijuana has not been subjected to high-quality, scientifically-  
11 controlled testing in humans. This does not mean that only  
12 randomized controlled double-blind studies are acceptable; good  
13 cohort studies would be acceptable Dr Christ's testimony, Audio  
14 Hearing Record, May 13, 2014, at 5:24 to 5:27.

15 This deletion and addition are made for consistency with the record.

16 Page 6, Findings of Fact, line 6, delete "Compos-Outcalt" and add "Campos-Outcalt"  
17 correct a clerical error

18 Page 6, Findings of Fact, number 34, line 9, after "as more evidence becomes available"  
19 add the following:  
20

21 Dr Campos-Outcalt testified that his systematic evidence review  
22 excluded animal studies because such studies do not tell very much  
23 about the effect in humans; that it is standard practice to exclude  
24 animal studies; that animal studies may tell you about basic  
25 physiological principles; that solid basic science research on  
26  
27  
28

1 animals may lead to studies on humans, but doesn't tell you how

2 things are going to work in humans; and that many drugs are

3 researched through animal studies, but less than five percent end

4 up being proven to work in humans Audio Hearing Record, May

5 13, 2014, at 1:12 to 1:17 Dr Campos-Outcalt further testified his

6 understanding is that the language in A.A.C. R9-17-106(A)(7) –

7 “reporting the results of research on the effects of marijuana on the

8 medical condition” – means the effect on people Audio Hearing

9 Record, May 13, 2014, at 4:21 to 4:22

10  
11 This addition is made for consistency with the record

12 Page 6, footnote 6, line 30, delete “his work” and add “the 2012 and 2013 evidence

13 reviews” for clarity

14  
15 Page 8, Findings of Fact, number 55, line 20, after “without any reported adverse

16 effects” add the following:

17  
18 The record established that there have been only anecdotal or

19 media reports of overdosing on marijuana or adverse effects of

20 marijuana See the Department's Supplemental Exhibits R and S.

21  
22 This addition is made for consistency with the record

23 Page 12, line 17, add Findings of Fact, numbers 91 through 95 as follows:

24 The New Mexico Study<sup>1</sup>

25 91 The record established that the New Mexico study was

26 published after the Department issued its determination denying

27  
28 <sup>1</sup> George R. Greer M.D., Charles S. Grob M.D. & Adam I. Halberstadt Ph.D. (2014) PTSD Symptom Reports of Patients Evaluated for the New Mexico Medical Cannabis Program, Journal of Psychoactive Drugs, 46:1, 73-77, DOI: 10.1080/02791072.2013.873843

1 Appellant's petition. Testimony of Dr. Campos-Outcalt that the  
2 publication date of the New Mexico study was January 16, 2014,  
3 Audio Hearing Record, May 13, 2014, at 4:06

4 92 The record established that the Committee reviewed a  
5 manuscript version of the New Mexico study. Dr. Campos-Outcalt  
6 and Dr. Christ testified that the manuscript version of the New  
7 Mexico study was not a high-quality study. Testimony of Dr.  
8 Campos-Outcalt, Audio Hearing Record, May 13, 2014, at 2:57 to  
9 3:03, 3:24 to 3:27, 4:07 to 4:11; testimony of Dr. Christ, Audio  
10 Hearing Record, May 14, 2014, at 0:37 to 0:39

11 93 The New Mexico study included 80 individuals in the New  
12 Mexico medical marijuana program who self-described as having  
13 PTSD. The New Mexico study results indicated more than 75  
14 percent symptom reduction among study subjects during  
15 marijuana-use time periods when compared with non-marijuana-  
16 use time periods. The New Mexico study concluded: "[T]he data  
17 reviewed here supports a conclusion that cannabis is associated  
18 with PTSD symptom reduction in some patients, . . ."

19 94 The issue addressed by the New Mexico study was the  
20 palliative (symptom-reduction) effect of marijuana use for PTSD.  
21 The New Mexico study did not address the issue of any therapeutic  
22 (curative) effect of marijuana use for PTSD and cannot provide  
23 support for any curative effect derived from marijuana use for  
24  
25  
26  
27  
28

1 PTSD or other condition. The Director finds that the record in this  
2 matter did not include credible evidence of a curative effect  
3 derived from marijuana use for PTSD or other condition.

4 95 The Director finds that the published version of the New  
5 Mexico study, which was not available to or considered by the  
6 Department for its review of Appellant's Petition, provides  
7 sufficient support for a decision by the Director to add PTSD to the  
8 list of debilitating conditions set forth in A.R.S. § 36-2801(3)  
9 because its subsequent publication in a peer-reviewed journal gives  
10 the study additional credibility. Further, the Director finds that a  
11 physician's written certification, as defined in A.R.S. § 36-  
12 2801(18), for the medical use of marijuana for PTSD is to be  
13 specifically limited to palliative, non-therapeutic use.

14  
15 Page 12, line 17, after Findings of Fact, number 95, as added herein, add Findings of  
16 Fact, numbers 96 and 97, as follows:  
17

18 Additional Findings by the Director

19  
20 96 The record shows that PTSD is a condition for which there  
21 are limited effective palliative treatment options, and that there is  
22 substantial anecdotal evidence that medical marijuana provides  
23 relief to those suffering from this condition.

24  
25 97 The director finds that the new evidence presented at the  
26 administrative hearing, including the additional weight that can be  
27 given to the New Mexico study, supports the Director's decision to  
28

1 add PTSD to the list of debilitating conditions as set forth in

2 A.R.S. § 36-2801(3)

3 **CONCLUSIONS OF LAW**

4 Page 13, Conclusions of Law, number 3, line 2, after "the same principles." add the  
5 following:

6 Further, Arizona courts have stated: "Statutory provisions are to  
7 read in the context of related provisions and the overall statutory  
8 scheme," and "[s]tatutes relating to the same subject matter should  
9 be read *in pari materia* to determine legislative intent [or in this  
10 case the intent of the voters] and to maintain harmony." *Gaulder*  
11 *v. Ariz. Dep't of Transp.*, 177 Ariz. 414, 416, 868 P.2d 997, 999  
12 (App. 1993), *aff'd*, 179 Ariz. 181, 877 P.2d 280 (1994)<sup>2</sup>.

13 This addition is made to correct an omission and for consistency with applicable case

14 law

15 Page 13, Conclusions of Law, number 4, line 10, delete "§ 9-17-106 (A)" and add "R9-  
16 17-106(A)" to make a technical correction

17 Page 13, Conclusions of Law, numbers 5 through 6, lines 11.5 through 24.5, delete the  
18 numbers, the text, and footnote 7 and add new Conclusions of Law, numbers 5 through 6 as  
19 follows:

20 5 Under the *in pari materia* rule of statutory construction,  
21 when read consistently with A.A.C. R9-17-106(A)(7), subsection  
22 (A)(6) must mean that a petition to add a debilitating condition is

23  
24  
25  
26  
27  
28 <sup>2</sup> Arizona courts apply the same rules in construing both statutes and rules. See *Gutierrez v. Indus. Comm'n of Ariz.*,  
226 Ariz. 395, 396, ¶ 5, 249 P.3d 1095, 1096 (2011); *Smith v. Ariz. Citizens Clean Elections Comm'n*, 212 Ariz.  
407, 412, ¶ 18, 132 P.3d 1187, 1192 (2006)

1 to include a summary of the evidence other than the articles  
2 reported in peer-reviewed journals. Articles reported in peer-  
3 reviewed journals are to be included under subsection (A)(7). The  
4 Department's interpretation gives meaning to both A.A.C. R9-17-  
5 106(A)(6) and (A)(7). An agency's interpretation of its rules is  
6 generally entitled to great weight and accorded deference by  
7 Arizona courts. See *Capitol Castings, Inc v Ariz Dep't of Econ*  
8 *Sec*, 171 Ariz 57, 60, 828 P.2d 781, 784 (App 1992); *Marlar v*  
9 *Ariz*, 136 Ariz. 404, 411-12, 666 P.2d 504, 511-12 (App 1983);  
10 *Metro Mobile CTS, Inc v NewVector Commc'ns, Inc*, 661 F.  
11 Supp 1504, 1512 (D Ariz 1987), *aff'd*, 892 F.2d 62 (9th Cir  
12 1989). The Director concludes that the Department's  
13 interpretation of its administrative rule is valid.

14  
15  
16 6. The record established that the Department reviewed all the  
17 material submitted by Appellant for its Petition, all the  
18 written/online comments submitted by public, all the comments  
19 made and materials submitted at the public hearing, and the U of A  
20 systematic evidence reviews. The Committee gave more weight to  
21 the evidence (or lack thereof) of articles published in peer-  
22 reviewed journals.  
23

24  
25 This deletion and addition are made for consistency with the Findings of Fact as amended  
26 and added herein and with applicable legal authorities  
27  
28

1 Page 13, Conclusions of Law, number 7, lines 25 and 26, delete the text and add the

2 following:

3 Based on the Department's subsequent review of the newly  
4 published, peer-reviewed New Mexico study and the additional  
5 evidence provided at the administrative hearing, the Director found  
6 that this provides sufficient support for a decision by the Director  
7 to add PTSD to the list of debilitating conditions set forth in A R S  
8 § 36-2801(3). The Director further found that a physician's  
9 written certification, as defined in A R S § 36-2801(18), for the  
10 medical use of marijuana for PTSD is to be specifically limited to  
11 palliative, non-therapeutic use See Findings of Fact, number 95 as  
12 added herein

13  
14  
15 This deletion and addition are made for consistency with Findings of Fact, numbers 91  
16 through 95 as added herein.

17 Page 13, Conclusions of Law, number 8, lines 27 and 28, delete the text and add the

18 following:

19 In accordance with the Findings of Fact and Conclusions of Law as  
20 amended and added herein, the Director concludes that Appellant's  
21 Petition and appeal should be granted, and that PTSD should be  
22 added to the list of debilitating conditions for which marijuana may  
23 be dispensed for medical use A physician's written certification,  
24 as defined in A R S § 36-2801(18), for the medical use of

25  
26  
27  
28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

marijuana for PTSD is to be specifically limited to palliative, non-therapeutic use

This deletion and addition are made as a technical change

Page 14, line 1, before "Order" add "Recommended" to make a technical change

Page 14, Recommended Order, lines 2 and 3, delete the text and add the following:

It is recommended that the Director grant Appellant's Petition and appeal; add PTSD to the list of debilitating conditions for which marijuana may be dispensed for medical use; and require that a physician's written certification, as defined in A R S § 36-2801(18), for the medical use of marijuana for PTSD be specifically limited to palliative, non-therapeutic use

This deletion and addition are made as a technical change

**IT IS ORDERED THAT** the appeal is granted.

**IT IS FURTHER ORDERED THAT** Appellant Arizona Cannabis Nurses Association's Petition to add Post-Traumatic Stress Disorder to the list of debilitating medical conditions set forth in A R S § 36-2801(3) is granted

**IT IS FURTHER ORDERED THAT** Post-Traumatic Stress Disorder is added to the list of debilitating conditions for which marijuana may be dispensed for medical use, from and after January 1, 2015

**IT IS FURTHER ORDERED THAT** a physician's written certification, as defined in A.R.S. § 36-2801(18), for the medical use of marijuana for Post-Traumatic Stress Disorder is to be specifically limited to palliative, non-therapeutic use

1                   **IT IS FURTHER ORDERED THAT** a physician's written certification, as defined in  
2                   A.R.S. § 36-2801(18), for the medical use of marijuana for Post-Traumatic Stress Disorder is to  
3                   include an attestation that the patient is participating in conventional treatment for Post-  
4                   Traumatic Stress Disorder  
5

6                   **IT IS FURTHER ORDERED THAT** the effective date for adding Post-Traumatic  
7                   Stress Disorder, for palliative use only, to the list of debilitating conditions for which marijuana  
8                   may be dispensed for medical use is January 1, 2015. This effective date enables physicians to  
9                   prepare for issuing written certifications in accordance with A.A.C. R9-17-202(F)(5) and (G)(8)  
10                  and A.A.C. R9-17-204(A)(5) and (B)(4) for best meeting the needs of patients who qualify for  
11                  the palliative use of medical marijuana for Post-Traumatic Stress Disorder; enables medical  
12                  marijuana dispensaries to comply with the requirement to develop, document, and implement  
13                  policies and procedures in accordance with A.A.C. R9-17-310(A)(2) for best meeting the needs  
14                  of patients who qualify for the palliative use of medical marijuana for Post-Traumatic Stress  
15                  Disorder; and enables medical directors of medical marijuana dispensaries to comply with  
16                  requirements to develop and provide training to dispensary agents in accordance with A.A.C.  
17                  R9-17-313(C), and to oversee the development and dissemination of educational materials and a  
18                  system for documenting qualifying patients' symptoms in accordance with A.A.C. R9-17-313(D)  
19                  for best meeting the needs of patients who qualify for the palliative use of medical marijuana for  
20                  Post-Traumatic Stress Disorder  
21                  Post-Traumatic Stress Disorder  
22                  Post-Traumatic Stress Disorder  
23

24                  **PURSUANT TO** the requirements of A.R.S. §§ 41-1092 08(H), 41-1092 09, and 12-904,  
25                  the parties are advised that they have a period of thirty (30) days from the receipt of this decision  
26                  to file a motion for rehearing or review with the Clerk of the Department, at the address  
27                  to file a motion for rehearing or review with the Clerk of the Department, at the address  
28

1 appearing on the distribution list; or a period of thirty-five (35) days after receipt of this decision

2 to file a notice of appeal for judicial review of administrative decision in Superior Court

3  
4  
5 Dated this 9<sup>th</sup> day of July, 2014

6   
7  
8 Will Humble  
9 Director

10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

AZCNA & MANUS v. AZDHS

Appeal/Request for Special Action

EXHIBITS

---

**EXHIBIT "3"**

**KEN SOBEL, ESQ.**

Attorney and Counselor

San Diego, California Office:

225 Broadway, 19<sup>th</sup> Floor

San Diego, California 92101

Southern Arizona Office:

5505 E. Paseo Cimarron

Tucson, Arizona 85750

Tel: 619.208.2439

E-Mail: [kennysocal711@gmail.com](mailto:kennysocal711@gmail.com)

Member, California and Arizona Bar Associations Since 1980

July 11, 2014

Mr. Gregory W. Falls, Esq.

[gfalls@ShermanHoward.com](mailto:gfalls@ShermanHoward.com)

Mr. Matthew A. Hesketh, Esq.

[mhesketh@ShermanHoward.com](mailto:mhesketh@ShermanHoward.com)

Sherman & Howard, LLC

201 East Washington Street, Suite 800

Phoenix, AZ 85004-2327

VIA E-MAIL ONLY

**RE: Arizona Cannabis Nurses Association v. Arizona Department of Health Services (Will Humble), OAH Case No. 2014A-MMR-0254-DHS**

Dear Mr. Hesketh:

Thanks for your prompt reply. I understand that Mr. Falls is out of town, but is expected back next week. I look forward to a follow-up with you early next week.

As I mentioned, there is a wealth of quality publications available on the subject of PTSD. We see no harm in requiring a recommending physician to provide such information to a prospective PTSD patient, provided that the patient is able to receive an MMJ Recommendation on the same visit if he/she is diagnosed with PTSD. In fact, the information is already available and is free as it is in the public domain. It's published by the National Institute of Mental Health ("NIMH"), and it is one of the best such publications my client has seen. It will also be a useful tool for the Medical Directors and Dispensary Agents.

Here's a link to the booklet: <http://www.nimh.nih.gov/health/publications/post-traumatic-stress-disorder-ptsd/index.shtml>

The AZCNA has the additional information concerning specific recommendations for the use of cannabis for PTSD including strains, methods of administration, and other useful guidelines, etc. AZCNA would be happy to provide this to the Department, Medical Directors and Dispensary Agents should the Department request it. Nurse Heather is a Registered Nurse and the third nurse in the United States to be certified as a cannabis nurse in the United States, a certification she received from the Ohio Nurses Association, an accredited approver by the American Nurses Credentialing Center's Commission on Accreditation. After the past 13 months, I doubt there is

anyone in the US more qualified to render such advice to PTSD Patients and Recommending Physicians, Medical Directors and Dispensary Agents.

Given that the information is so readily available, the Director should make the effective date not later than August 15, 2014. He should consider the NIMH PTSD Booklet and AZCNA's Guidelines in the Effective Use of Cannabis to Provide Relief for PTSD Symptoms as a uniform standard to be used by all AMMA participants. Or, allow the Dispensaries/Medical Directors to submit the required information on or after August 15<sup>th</sup>, and allow them to begin dispensing to PTSD patients upon Department approval of the revised policy/information.

Turning next to the Decision, the Director seems to be focused on distinguishing between therapeutic v. palliative benefit with respect to PTSD even though the same is not applied to all other listed conditions. Clearly, the only relevance as it relates to the actual Rules is that Rules allow new conditions to be added regardless of whether they are therapeutic or for palliative benefit. Once a finding is made that cannabis provides one or the other, the condition is added to the list. Again, the use of the disjunctive "or" is the key, exactly as the AZCNA argued at the Hearing. Certainly, there is no evidence or rule that would compel any difference in the use of the cannabis medicine regardless of whether such use provides a therapy or palliative benefit.

The voters and rulemakers provided that either was a sufficient basis to have cannabis listed and recommended. Some definitions of therapeutic refer to "curative" suggesting that a therapeutic use is one that may provide a curative effect versus a palliative benefit which usually refers to symptom relief. Under the law, as it relates to medical marijuana, both are treated with equal importance, neither greater than the other.

This makes abundant sense. As I mentioned before, there is no known cure for PTSD, just like there's no known cure for Cancer, HIV, Hepatitis C, Alzheimer's Disease, and so on. Yet, those listed conditions do not have any specific qualification on their use. As long as cannabis provides either a therapeutic effect or a palliative benefit, that's perfectly acceptable under AMMA.

Thus, the first exception made in the Director's Decision, page 11, lines 24 – 27, is unnecessary albeit not as toxic as the second exception at page 12, lines 1 -5. This one would require a recommending physician to attest that "the patient is participating in conventional treatment for [PTSD]." Thus, a PTSD patient – unlike a patient who suffers from any other listed condition – will be required to submit to psychological counseling and/or the toxic pharmaceutical cocktail that the evidence overwhelmingly established causes potentially as much harm as good – including an increased risk of suicidal ideation. Under this recipe, we may actually witness an increase in the number of PTSD veterans committing suicide, over and above the 22 per day epidemic we have now. Besides the fact that there is absolutely no authority to impose such a condition, it will clearly be stricken by a court as it places an impermissible burden on patient choice as to whether to undergo a medical procedure, or not, and an impermissible burden on the doctor/patient relationship.

The veterans who paid the price to defend us and returned home with a serious and debilitating PTSD condition do not need any more barriers to getting well or feeling better such as a requirement to getting "conventional" treatment at the Phoenix VA. As you know, Mr. Pereyda described in detail how poorly that turned out for him, and Nurse Heather described multiple suicide attempts and the "conventional" response by her "conventional" doctor who simply increased the dosage of dangerous, off-label pharmaceutical drugs.

My client would be inclined to stipulate to the following modifications in the Decision, and waive its right or appeal, or to seek a writ of mandamus with respect to the Director's Ruling. Otherwise, we expect that a Court will easily agree with our position, order the immediate implementation of

the only valid aspect of the Decision – add PTSD as a debilitating condition – strike the unlawful conditions, and award our costs and attorney’s fees pursuant to ARS12-348.01.

The proposed modifications are as follows:

**IT IS FURTHER ORDERED THAT** a physician's written certification, as defined in ARS §36--2801(18), for the medical use of marijuana for Post-Traumatic Stress Disorder is ~~for~~ provided for the ~~to~~ ~~be specifically limited to palliative benefit of the patient, non-therapeutic use.~~

Formatted: Centered, Indent: Left: 0.13", Right: 0.17", Space Before: 0.7 pt, Line spacing: Exactly 11.65 pt, Tab stops: Not at 0.39"

**IT IS FURTHER ORDERED THAT** a physician's written certification, as defined in A.R.S. § 36-2801(18), for the medical use of marijuana for Post-Traumatic Stress Disorder is to include an attestation that the patient is participating in conventional treatment has been provided with information on other available treatments for Post-Traumatic Stress Disorder.

Formatted: Body Text, Indent: Left: 0.4", Space Before: 0.8 pt  
Formatted: Indent: Left: 0.4", Space Before: 0.8 pt, Line spacing: single

**IT IS FURTHER ORDERED THAT** the effective date for adding Post-Traumatic Stress Disorder, for palliative use only, to the list of debilitating conditions for which marijuana may be dispensed for medical use is ~~August 15, 2014, January 1, 2015~~ This effective date enables physicians to prepare for issuing written certifications in accordance with AAC R9-17-202(F)(5) and (G)(8) and AAC R9-17-204(A)(5) and (B)(4) for best meeting the needs of patients who qualify for the palliative use of medical marijuana for Post-Traumatic Stress Disorder; enables medical marijuana dispensaries to comply with the requirement to develop, document, and implement policies and procedures in accordance with A A C R9-17-310(A)(2) for best meeting the needs of patients who qualify for the palliative use of medical marijuana for Post-Traumatic Stress Disorder; and enables medical directors of medical marijuana dispensaries to comply with requirements to develop and provide training to dispensary agents in accordance with AAC R9-17-313(C), and to oversee the development and dissemination of educational materials and a system for documenting qualifying patients' symptoms in accordance with AAC R9-17-313(D) for best meeting the needs of patients who qualify for the palliative use of medical marijuana for Post-Traumatic Stress Disorder.

If you would like to discuss this proposal, please don't hesitate to contact me.

With kind regards,

/s/

Ken Sobel

Attorney for Petitioner,

The Arizona Cannabis Nurses Association

Cc: Nurse Heather

Attorneys for Americans For Safe Access

AZCNA & MANUS v. AZDHS

Appeal/Request for Special Action

EXHIBITS

---

**EXHIBIT "4"**

---



---

## Arizona Cannabis Nurses Association

Heather Manus RN President  
5500 E. Pecos Cir. Suite 100  
Tucson, AZ 85750  
(520) 716-6016  
ca.nshnurseheather@gmail.com

August 13, 2014

### **SUMMARY OF PTSD CASE**

A year-long battle waged by the Arizona Cannabis Nurses Association on behalf of PTSD victims – particularly thousands of military service members and veterans returning from Iraq and Afghanistan – ended in victory on Wednesday when Arizona Department of Health Services (“AZ DHS”) Director, Will Humble, announced that he would yield to a Judge’s Decision and allow Post Traumatic Stress Disorder to be listed as a debilitating condition allowing PTSD sufferers to qualify for the right to use medical marijuana to treat the condition.

Nurse Heather Manus, RN, the President of the Arizona Cannabis Nurses Association (“AZCNA”), a nurse’s education and patient support group, hailed the decision on behalf of PTSD patients state-wide. “This is a major step forward for our war heroes and others who suffer from PTSD. Unlike the conventional medications used for PTSD, medical cannabis is a gentle plant therapy which helps in all aspects of the disorder – fear extinction, memory retrieval and stress mediation.” Nurse Heather has been a medical director of a Santa Fe, New Mexico cannabis dispensary since 2010, and as an in-home psych nurse there she frequently helped vets with PTSD to get off other harmful pharmaceutical medications that have serious side effects, and replace those with medical cannabis.

“In New Mexico, PTSD patients have had safe access to cannabis since 2009, and after 4 years and several thousand patients, there has not been one reported adverse effect from its use.” A panel of doctors and scientists in New Mexico unanimously added PTSD in 2009, and unanimously retained it in 2013. Indeed, 13 states now approve medical cannabis for PTSD (including adult-legal Washington and

Colorado), and the last 5 states to consider it have added it or retained it. New York – which adopted a medical cannabis program last month – included PTSD as a debilitating condition in its enabling legislation, and therefore became the 12<sup>th</sup> state to add PTSD. Arizona now becomes the 13<sup>th</sup>.

In total, 32 states have now approved some form of legal medical cannabis including 9 predominately “red states” whose state legislatures adopted a “Charlotte’s Web” law in 2014 allowing legal access to high CBD Cannabis Oil for the treatment of seizure disorders in children. Two others – Missouri and North Carolina – are set to add such a law this year.

The AZCNA was represented by Ken Sobel, a Tucson native and former student body president of the University of Arizona, and the founder of Spring Fling and the Arizona Student Association. Mr. Sobel applauded the Director’s decision, stating: “This was actually an easy case to prove. Judge Shedden got it right. Politics aside, the science is the same in Arizona as it is in New Mexico, Nevada and California – contiguous states that have listed PTSD in their medical cannabis programs. Hats off to the AZCNA for tirelessly and selflessly pursuing this case on behalf of our returning war heroes.”

This is especially so in Arizona, the poster child for VA healthcare neglect – where many of our returning vets, including those with symptoms of PTSD, spend 6 months, or more, waiting for even a first visit. Now they can safely access medical cannabis at any of the more than 80 legal dispensaries statewide, once they receive a medical recommendation and AZDHS Patient Card.

The evidence proved that more than 500,000 Arizona residents suffer from PTSD, a serious and debilitating condition involving nightmares, flashbacks, social issues and hyper-vigilance. Although the majority of PTSD sufferers are women – typically as a result of domestic or sexual abuse – it has reached epidemic proportions for our veterans and returning service member community. Government studies show that more than 30% of our returning war heroes suffer from PTSD, and twenty-two veterans commit suicide daily.

On July 25, 2013, the Arizona Cannabis Nurses Association (“AZCNA”) filed a 109 page Petition with AZDHS to Add PTSD as a debilitating condition. The Petition was initially approved for a public hearing which was held at the Department of Health Services in Phoenix on October 29, 2013. Fourteen witnesses, including three doctors and one registered nurse, testified in favor of adding PTSD, and only one anti-smoking advocate against it. However, the AZDHS only allowed each witness

about 2 – 3 minutes to testify. In addition, 700 PTSD patients and family members urged the Department to add PTSD through an AZDHS website portal with only two opposed.

However, Director Humble rejected the Petition on January 14, 2014, and the AZCNA appealed.

The Arizona Office of Administrative Hearings (“OAH”) appointed Judge Thomas Shedden to hear the appeal, and between March 26, 2014 and May 15, 2014, more than 24 hours of evidentiary hearings occurred. Three medical doctors – including a doctor who served as the chief medical officer for the US Olympic Track & Field team – and Cannabis Nurse Heather – testified to a “reasonable degree of medical certainty” that medical cannabis was “safe and effective” in the treatment of PTSD.

On June 4, 2014, Judge Shedden announced his decision reversing the Director’s decision, and ordered that PTSD be added as a debilitating condition. Judge Shedden found that AZCNA had presented “substantial evidence” that PTSD sufferers receive a palliative benefit from medical cannabis.

After 35 days, Director Humble finally conceded to the Judge’s decision.

This is a landmark case. This is the first time in the United States where a debilitating condition was added by a Judge’s ruling following a denial by a state agency. Further, this is the first new condition added under Arizona Law in the four year history of the Arizona Medical Marijuana Act. AZDHS had previously denied all 20 petitions seeking to add PTSD and other conditions submitted to it. As far as the additional conditions imposed by Director Humble – delaying the implementation to January 1, 2015, and limiting patient access to cannabis therapy to only those patients currently undergoing “conventional therapy” – such conditions are not authorized under the law and represent a clear abuse of discretion, discretion that the Department does not have either under the law or the rules, specifically Arizona Administrative Code Rule R9-17-106.

AZCNA & MANUS v. AZDHS

Appeal/Request for Special Action

EXHIBITS

---

**EXHIBIT "5"**

# PROPOSITION 203

## OFFICIAL TITLE

### AN INITIATIVE MEASURE

AMENDING TITLE 36, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 28.1; AMENDING SECTION 43-1201, ARIZONA REVISED STATUTES; RELATING TO THE MEDICAL USE OF MARIJUANA; PROVIDING FOR CONDITIONAL REPEAL.

### TEXT OF PROPOSED AMENDMENT

Be it enacted by the people of the state of Arizona:

Section 1 Title.  
This act may be cited as the "Arizona Medical Marijuana Act."

Sec. 2 Findings.  
The People of the State of Arizona find and declare the following:  
A. Marijuana's recorded use as a medicine goes back nearly 5,000 years, and modern medical research has confirmed beneficial uses for marijuana in treating or alleviating the pain, nausea and other symptoms associated with a variety of debilitating medical conditions, including cancer, multiple sclerosis and HIV/AIDS, as found by the National Academy of Sciences' Institute of Medicine in March 1999.  
B. Studies published since the 1999 Institute of Medicine report have continued to show the therapeutic value of marijuana in treating a wide array of debilitating medical conditions. These include relief of neuropathic pain caused by multiple sclerosis, HIV/AIDS and other illnesses that often fail to respond to conventional treatments and relief of nausea, vomiting and other side effects of drugs used to treat HIV/AIDS and hepatitis C, increasing the chances of patients continuing on life-saving treatment regimens.  
C. Marijuana has many currently accepted medical uses in the United States, having been recommended by thousands of licensed physicians to at least 260,000 patients in the states with medical marijuana laws. Marijuana's medical utility has been recognized by a wide range of medical and public health organizations, including the American Academy of HIV Medicine, American College of Physicians, American Nurses Association, American Public Health Association, Leukemia & Lymphoma Society and many others.  
D. Data from the Federal Bureau of Investigation's Uniform Crime Reports and the Compendium of Federal Justice Statistics show that approximately 99 out of every 100 marijuana arrests in the U.S. are made under state law, rather than under federal law. Consequently, changing state law will have the practical effect of protecting from arrest the vast majority of seriously ill patients who have a medical need to use marijuana.  
E. Alaska, California, Colorado, Hawaii, Maine, Michigan, Montana, Nevada, New Mexico, Oregon, Vermont, Rhode Island and Washington have removed state-level criminal penalties for the medical use and cultivation of marijuana. Arizona joins in this effort for the health and welfare of its citizens.  
F. States are not required to enforce federal law or prosecute people for engaging in activities prohibited by federal law. Therefore, compliance with this act does not put the state of Arizona in violation of federal law.  
G. State law should make a distinction between the medical and nonmedical uses of marijuana. Hence, the purpose of this act is to protect patients with debilitating medical conditions, as well as their physicians and providers, from arrest and prosecution, criminal and other penalties and property forfeiture if such patients engage in the medical use of marijuana.

Sec. 3, Title 36, Arizona Revised Statutes, is amended by adding Chapter 28.1 to read:

\*\*\*\*\*

### 36-2801.01. Addition of debilitating medical conditions (Caution: 1998 Prop. 105 applies)

The public may petition the department to add debilitating medical conditions or treatments to the list of debilitating medical conditions set forth in section 36-2801, paragraph 3. The department shall consider petitions in the manner required by department rule, including public notice and hearing. The department shall approve or deny a petition within one-hundred-eighty days of its submission. The approval

or denial of a petition is a final decision of the department subject to judicial review pursuant to title 12, chapter 7, article 6. Jurisdiction and venue are vested in the superior court.

\*\*\*\*

**R9-17-106. Adding a Debilitating Medical Condition**

- A. An entity may request the addition of a medical condition to the list of debilitating medical conditions in R9-17-201 by submitting to the Department, at the times specified in subsection (C), the following in writing:
1. The entity's name;
  2. The entity's mailing address, name of contact individual, telephone number, and, if applicable, e-mail address;
  3. The name of the medical condition the entity is requesting be added;
  4. A description of the symptoms and other physiological effects experienced by an individual suffering from the medical condition or a treatment of the medical condition that may impair the ability of the individual to accomplish activities of daily living;
  5. The availability of conventional medical treatments to provide therapeutic or palliative benefit for the medical condition or a treatment of the medical condition;
  6. A summary of the evidence that the use of marijuana will provide therapeutic or palliative benefit for the medical condition or a treatment of the medical condition; and
  7. Articles, published in peer-reviewed scientific journals, reporting the results of research on the effects of marijuana on the medical condition or a treatment of the medical condition supporting why the medical condition should be added.
- B. The Department shall:
1. Acknowledge in writing the Department's receipt of a request for the addition of a medical condition to the list of debilitating medical conditions listed in R9-17-201 within 30 calendar days after receiving the request;
  2. Review the request to determine if the requester has provided evidence that:
    - a. The specified medical condition or treatment of the medical condition impairs the ability of the individual to accomplish activities of daily living, and
    - b. Marijuana usage provides a therapeutic or palliative benefit to an individual suffering from the medical condition or treatment of the medical condition;
  3. Within 90 calendar days after receiving the request, notify the requester that the Department has determined that the information provided by the requester:
    - a. Meets the requirements in subsection (B)(2) and the date the Department will conduct a public hearing to discuss the request; or
    - b. Does not meet the requirements in subsection (B)(2), the specific reason for the determination, and the process for requesting judicial review of the Department's determination pursuant to A.R.S. Title 12, Chapter 7, Article 6;
  4. If applicable:
    - a. Schedule a public hearing to discuss the request;
    - b. Provide public notice of the public hearing by submitting a Notice of Public Information to the Office of the Secretary of State, for publication in the Arizona Administrative Register at least 30 calendar days before the date of the public hearing;
    - c. Post a copy of the request on the Department's web site for public comment at least 30 calendar days before the date of the public hearing; and
    - d. Hold the public hearing no more than 150 calendar days after receiving the request; and
  5. Within 180 calendar days after receiving the request:
    - a. Add the medical condition to the list of debilitating medical conditions, or
    - b. Provide written notice to the requester of the Department's decision to deny the request that includes:
      - i. The specific reasons for the Department's decision; and
      - ii. The process for requesting judicial review of the Department's decision pursuant to A.R.S. Title 12, Chapter 7, Article 6.
- C. The Department shall accept requests for the addition of a medical condition to the list of debilitating medical conditions in R9-17-201 in January and July of each calendar year starting in January 2012.

\*\*\*\*

**36-2801. Definitions**

(Caution: 1998 Prop. 105 applies)

In this chapter, unless the context otherwise requires:

1. "Allowable amount of marijuana"

(a) With respect to a qualifying patient, the "allowable amount of marijuana" means:

- (i) Two-and-one-half ounces of usable marijuana; and
- (ii) If the qualifying patient's registry identification card states that the qualifying patient is authorized to cultivate marijuana, twelve marijuana plants contained in an enclosed, locked facility except that the plants are not required to be in an enclosed, locked facility if the plants are being transported because the qualifying patient is moving.

(b) With respect to a designated caregiver, the "allowable amount of marijuana" for each patient assisted by the designated caregiver under this chapter means:

- (i) Two-and-one-half ounces of usable marijuana; and
- (ii) If the designated caregiver's registry identification card provides that the designated caregiver is authorized to cultivate marijuana, twelve marijuana plants contained in an enclosed, locked facility except that the plants are not required to be in an enclosed, locked facility if the plants are being transported because the designated caregiver is moving.

(c) Marijuana that is incidental to medical use, but is not usable marijuana as defined in this chapter, shall not be counted toward a qualifying patient's or designated caregiver's allowable amount of marijuana.

2. "Cardholder" means a qualifying patient, a designated caregiver or a nonprofit medical marijuana dispensary agent who has been issued and possesses a valid registry identification card.

3. "Debilitating medical condition" means one or more of the following:

- (a) Cancer, glaucoma, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, hepatitis C, amyotrophic lateral sclerosis, crohn's disease, agitation of alzheimer's disease or the treatment of these conditions.
- (b) A chronic or debilitating disease or medical condition or its treatment that produces one or more of the following: cachexia or wasting syndrome; severe and chronic pain; severe nausea; seizures, including those characteristic of epilepsy; or severe and persistent muscle spasms, including those characteristic of multiple sclerosis.

(c) Any other medical condition or its treatment added by the department pursuant to section 36-2801.01.

4. "Department" means the Arizona department of health services or its successor agency.

5. "Designated caregiver" means a person who:

- (a) Is at least twenty-one years of age.
- (b) Has agreed to assist with a patient's medical use of marijuana.
- (c) Has not been convicted of an excluded felony offense.
- (d) Assists no more than five qualifying patients with the medical use of marijuana.
- (e) May receive reimbursement for actual costs incurred in assisting a registered qualifying patient's medical use of marijuana if the registered designated caregiver is connected to the registered qualifying patient through the department's registration process. The designated caregiver may not be paid any fee or compensation for his service as a caregiver. Payment for costs under this subdivision shall not constitute an offense under title 13, chapter 34 or under title 36, chapter 27, article 4.

6. "Enclosed, locked facility" means a closet, room, greenhouse or other enclosed area equipped with locks or other security devices that permit access only by a cardholder.

7. "Excluded felony offense" means:

(a) A violent crime as defined in section 13-901.03, subsection B, that was classified as a felony in the jurisdiction where the person was convicted.

(b) A violation of a state or federal controlled substance law that was classified as a felony in the jurisdiction where the person was convicted but does not include:

(i) An offense for which the sentence, including any term of probation, incarceration or supervised release, was completed ten or more years earlier.

(ii) An offense involving conduct that would be immune from arrest, prosecution or penalty under section 36-2811 except that the conduct occurred before the effective date of this chapter or was prosecuted by an authority other than the state of Arizona.

8. "Marijuana" means all parts of any plant of the genus *cannabis* whether growing or not, and the seeds of such plant.

9. "Medical use" means the acquisition, possession, cultivation, manufacture, use, administration, delivery, transfer or transportation of marijuana or paraphernalia relating to the administration of marijuana to treat or alleviate a registered qualifying patient's debilitating medical condition or symptoms associated with the patient's debilitating medical condition.

10. "Nonprofit medical marijuana dispensary agent" means a principal officer, board member, employee or volunteer of a nonprofit medical marijuana dispensary who is at least twenty-one years of age and has not been convicted of an excluded felony offense.

11. "Nonprofit medical marijuana dispensary" means a not-for-profit entity that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, supplies, sells or dispenses marijuana or related supplies and educational materials to cardholders. A nonprofit medical marijuana dispensary may receive payment for all expenses incurred in its operation.

12. "Physician" means a doctor of medicine who holds a valid and existing license to practice medicine pursuant to title 32, chapter 13 or its successor, a doctor of osteopathic medicine who holds a valid and existing license to practice osteopathic medicine pursuant to title 32, chapter 17 or its successor, a naturopathic physician who holds a valid and existing license to practice naturopathic medicine pursuant to title 32, chapter 14 or its successor or a homeopathic physician who holds a valid and existing license to practice homeopathic medicine pursuant to title 32, chapter 29 or its successor.

13. "Qualifying patient" means a person who has been diagnosed by a physician as having a debilitating medical condition.

14. "Registry identification card" means a document issued by the department that identifies a person as a registered qualifying patient, registered designated caregiver or a registered nonprofit medical marijuana dispensary agent.

15. "Usable marijuana" means the dried flowers of the marijuana plant, and any mixture or preparation thereof, but does not include the seeds, stalks and roots of the plant and does not include the weight of any non-marijuana ingredients combined with marijuana and prepared for consumption as food or drink.

16. "Verification system" means a secure, password-protected, web-based system established and maintained by the department that is available to law enforcement personnel and nonprofit medical marijuana dispensary agents on a twenty-four hour basis for verification of registry identification cards.

17. "Visiting qualifying patient" means a person:

(a) Who is not a resident of Arizona or who has been a resident of Arizona less than thirty days.

(b) Who has been diagnosed with a debilitating medical condition by a person who is licensed with authority to prescribe drugs to humans in the state of the person's residence or, in the case of a person who has been a resident of Arizona less than thirty days, the state of the person's former residence.

18. "Written certification" means a document dated and signed by a physician, stating that in the physician's professional opinion the patient is likely to receive therapeutic or palliative benefit from the medical use of marijuana to treat or alleviate the patient's debilitating medical condition or symptoms associated with the debilitating medical condition. The physician must:

(a) Specify the qualifying patient's debilitating medical condition in the written certification.

(b) Sign and date the written certification only in the course of a physician-patient relationship after the physician has completed a full assessment of the qualifying patient's medical history.

\*\*\*\*

**R9-17-202. Applying for a Registry Identification Card for a Qualifying Patient or a Designated Caregiver**

A. Except for a qualifying patient who is under 18 years of age, a qualifying patient is not required to have a designated caregiver.

B. A qualifying patient may have only one designated caregiver at any given time.

C. Except for a qualifying patient who is under 18 years of age, if the information submitted for a qualifying patient complies with A.R.S. Title 36, Chapter 28.1 and this Chapter but the information for the qualifying patient's designated caregiver does not comply with A.R.S. Title 36, Chapter 28.1 and this Chapter, the Department shall issue the registry identification card for the qualifying patient separate from issuing a registry identification card for the qualifying patient's designated caregiver.

D. If the Department issues a registry identification card to a qualifying patient under subsection (C), the Department shall continue the process for issuing or denying the qualifying patient's designated caregiver's registry identification card.

E. The Department shall not issue a designated caregiver's registry identification card before the Department issues the designated caregiver's qualifying patient's registry identification card.

F. Except as provided in subsection (G), to apply for a registry identification card, a qualifying patient shall submit to the Department the following:

1. An application in a Department-provided format that includes:

a. The qualifying patient's:

i. First name; middle initial, if applicable; last name; and suffix, if applicable;

ii. Date of birth; and

iii. Gender;

b. Except as provided in subsection (F)(1)(i), the qualifying patient's residence address and mailing address;

c. The county where the qualifying patient resides;

d. The qualifying patient's e-mail address;

e. The identifying number on the applicable card or document in subsection (F)(2)(a) through (e);

f. The name, address, and telephone number of the physician providing the written certification for medical marijuana for the qualifying patient;

g. Whether the qualifying patient is requesting authorization for cultivating marijuana plants for the qualifying patient's medical use because the qualifying patient believes that the qualifying patient resides at least 25 miles from the nearest operating dispensary;

- h. If the qualifying patient is requesting authorization for cultivating marijuana plants, whether the qualifying patient is designating the qualifying patient's designated caregiver to cultivate marijuana plants for the qualifying patient's medical use;
  - i. If the qualifying patient is homeless, an address where the qualifying patient can receive mail;
  - j. Whether the qualifying patient would like notification of any clinical studies needing human subjects for research on the medical use of marijuana;
  - k. ~~An attestation that the information provided in the application is true and correct; and~~
  - l. The signature of the qualifying patient and date the qualifying patient signed;
2. A copy of the qualifying patient's:
- a. Arizona driver's license issued on or after October 1, 1996;
  - b. Arizona identification card issued on or after October 1, 1996;
  - c. Arizona registry identification card;
  - d. Photograph page in the qualifying patient's U.S. passport; or
  - e. Arizona driver's license or identification card issued before October 1, 1996 and one of the following for the qualifying patient:
    - i. Birth certificate verifying U.S. citizenship,
    - ii. U.S. Certificate of Naturalization, or
    - iii. U.S. Certificate of Citizenship;
3. A current photograph of the qualifying patient;
4. A statement in a Department-provided format signed by the qualifying patient pledging not to divert marijuana to any individual who or entity that is not allowed to possess marijuana pursuant to A.R.S. Title 36, Chapter 28.1;
5. A physician's written certification in a Department-provided format dated within 90 calendar days before the submission of the qualifying patient's application that includes:
- a. The physician's:
    - i. Name,
    - ii. License number including an identification of the physician license type,
    - iii. Office address on file with the physician's licensing board,
    - iv. Telephone number on file with the physician's licensing board, and
    - v. E-mail address;
  - b. The qualifying patient's name and date of birth;
  - c. A statement that the physician has made or confirmed a diagnosis of a debilitating medical condition as defined in A.R.S. § 36-2801 for the qualifying patient;
  - d. An identification, initialed by the physician, of one or more of the debilitating medical conditions in R9-17-201 as the qualifying patient's specific debilitating medical condition;
  - e. If the debilitating medical condition identified in subsection (F)(5)(d) is a condition in:
    - i. R9-17-201(9) through (13), the underlying chronic or debilitating disease or medical condition; or
    - ii. R9-17-201(14), the debilitating medical condition;
  - f. A statement, initialed by the physician, that the physician:
    - i. Has established a medical record for the qualifying patient, and
    - ii. Is maintaining the qualifying patient's medical record as required in A.R.S. § 12-2297;
  - g. A statement, initialed by the physician, that the physician has conducted an in-person physical examination of the qualifying patient within the previous 90 calendar days appropriate to the qualifying patient's presenting symptoms and the qualifying patient's debilitating medical condition diagnosed or confirmed by the physician;
  - h. The date the physician conducted the in-person physical examination of the qualifying patient;
  - i. A statement, initialed by the physician, that the physician reviewed the qualifying patient's:
    - i. Medical records including medical records from other treating physicians from the previous 12 months,
    - ii. Response to conventional medications and medical therapies, and
    - iii. Profile on the Arizona Board of Pharmacy Controlled Substances Prescription Monitoring Program database;
  - j. A statement, initialed by the physician, that the physician has explained the potential risks and benefits of the medical use of marijuana to the qualifying patient;
  - k. A statement, initialed by the physician, that in the physician's professional opinion, the qualifying patient is likely to receive therapeutic or palliative benefit from the qualifying patient's medical use of marijuana to treat or alleviate the qualifying patient's debilitating medical condition;
  - l. A statement, initialed by the physician, that if the physician has referred the qualifying patient to a dispensary, the physician has disclosed to the qualifying patient any personal or professional relationship the physician has with the dispensary;
  - m. An attestation that the information provided in the written certification is true and correct; and
  - n. The physician's signature and the date the physician signed;
6. If the qualifying patient is designating a caregiver, the following in a Department-provided format:
- a. The designated caregiver's first name; middle initial, if applicable; last name; and suffix, if applicable;
  - b. The designated caregiver's date of birth;
  - c. The designated caregiver's residence address and mailing address;

- d. The county where the designated caregiver resides;
  - e. The identifying number on the applicable card or document in subsection (F)(6)(i)(i) through (v);
  - f. One of the following:
    - i. A statement that the designated caregiver does not currently hold a valid registry identification card, or
    - ii. The assigned registry identification number for the designated caregiver for each valid registry identification card currently held by the designated caregiver;
  - g. ~~An attestation signed and dated by the designated caregiver that the designated caregiver has not been convicted of an excluded felony offense as defined in A.R.S. § 36-2801;~~
  - h. A statement signed by the designated caregiver:
    - i. Agreeing to assist the qualifying patient with the medical use of marijuana; and
    - ii. Pledging not to divert marijuana to any individual who or entity that is not allowed to possess marijuana pursuant to A.R.S. Title 36, Chapter 28.1;
  - i. A copy of the designated caregiver's:
    - i. Arizona driver's license issued on or after October 1, 1996;
    - ii. Arizona identification card issued on or after October 1, 1996;
    - iii. Arizona registry identification card;
    - iv. Photograph page in the designated caregiver's U.S. passport; or
    - v. Arizona driver's license or identification card issued before October 1, 1996 and one of the following for the designated caregiver:
      - (1) Birth certificate verifying U.S. citizenship,
      - (2) U.S. Certificate of Naturalization, or
      - (3) U.S. Certificate of Citizenship;
  - j. A current photograph of the designated caregiver; and
  - k. For the Department's criminal records check authorized in A.R.S. § 36-2804.05:
    - i. The designated caregiver's fingerprints on a fingerprint card that includes:
      - (1) The designated caregiver's first name; middle initial, if applicable; and last name;
      - (2) The designated caregiver's signature;
      - (3) If different from the designated caregiver, the signature of the individual physically rolling the designated caregiver's fingerprints;
      - (4) The designated caregiver's address;
      - (5) If applicable, the designated caregiver's surname before marriage and any names previously used by the designated caregiver;
      - (6) The designated caregiver's date of birth;
      - (7) The designated caregiver's Social Security number;
      - (8) The designated caregiver's citizenship status;
      - (9) The designated caregiver's gender;
      - (10) The designated caregiver's race;
      - (11) The designated caregiver's height;
      - (12) The designated caregiver's weight;
      - (13) The designated caregiver's hair color;
      - (14) The designated caregiver's eye color; and
      - (15) The designated caregiver's place of birth; or
    - ii. If the designated caregiver's fingerprints and information required in subsection (F)(6)(k)(i) were submitted to the Department as part of an application for a designated caregiver or a dispensary agent registry identification card within the previous six months, the registry identification number on the registry identification card issued to the designated caregiver as a result of the application; and
7. The applicable fees in R9-17-102 for applying for:
- a. A qualifying patient registry identification card; and
  - b. If applicable, a designated caregiver registry identification card.
- G. To apply for a registry identification card for a qualifying patient who is under 18 years of age, the qualifying patient's custodial parent or legal guardian responsible for health care decisions for the qualifying patient shall submit to the Department the following:
- 1. An application in a Department-provided format that includes:
    - a. The qualifying patient's:
      - i. First name; middle initial, if applicable; last name; and suffix, if applicable;
      - ii. Date of birth; and
      - iii. Gender;
    - b. The qualifying patient's residence address and mailing address;
    - c. The county where the qualifying patient resides;
    - d. The qualifying patient's custodial parent's or legal guardian's first name; middle initial, if applicable; last name; and suffix, if applicable;
    - e. The identifying number on the applicable card or document in subsection (G)(5)(a) through (e);

- f. The qualifying patient's custodial parent's or legal guardian's residence address and mailing address;
  - g. The county where the qualifying patient's custodial parent or legal guardian resides;
  - h. The qualifying patient's custodial parent's or legal guardian's e-mail address;
  - i. The name, address, and telephone number of a physician who has a physician-patient relationship with the qualifying patient and is providing the written certification for medical marijuana for the qualifying patient;
  - j. The name, address, and telephone number of a second physician who has conducted a comprehensive review of the patient's medical record maintained by other treating physicians, and is providing a written certification for medical marijuana for the qualifying patient;
  - k. The qualifying patient's custodial parent's or legal guardian's date of birth;
  - l. Whether the qualifying patient's custodial parent or legal guardian is requesting authorization for cultivating medical marijuana plants for the qualifying patient's medical use because the qualifying patient's custodial parent or legal guardian believes that the qualifying patient resides at least 25 miles from the nearest operating dispensary;
  - m. Whether the qualifying patient's custodial parent or legal guardian would like notification of any clinical studies needing human subjects for research on the medical use of marijuana;
  - n. Whether the individual submitting the application on behalf of the qualifying patient under 18 years of age is the qualifying patient's custodial parent or legal guardian;
  - o. One of the following:
    - i. A statement that the qualifying patient's custodial parent or legal guardian does not currently hold a valid registry identification card, or
    - ii. The assigned registry identification number for the qualifying patient's custodial parent or legal guardian for each valid registry identification card currently held by the qualifying patient's custodial parent or legal guardian;
  - p. An attestation that the information provided in the application is true and correct; and
  - q. The signature of the qualifying patient's custodial parent or legal guardian and the date the qualifying patient's custodial parent or legal guardian signed;
2. A current photograph of the:
    - a. Qualifying patient, and
    - b. Qualifying patient's custodial parent or legal guardian serving as the qualifying patient's designated caregiver;
  3. An attestation in a Department-provided format signed and dated by the qualifying patient's custodial parent or legal guardian that the qualifying patient's custodial parent or legal guardian has not been convicted of an excluded felony offense as defined in A.R.S. § 36-2801;
  4. A statement in a Department-provided format signed by the qualifying patient's custodial parent or legal guardian who is serving as the qualifying patient's designated caregiver:
    - a. Allowing the qualifying patient's medical use of marijuana;
    - b. Agreeing to assist the qualifying patient with the medical use of marijuana; and
    - c. Pledging not to divert marijuana to any individual who or entity that is not allowed to possess marijuana pursuant to A.R.S. Title 36, Chapter 28.1;
  5. A copy of one of the following for the qualifying patient's custodial parent or legal guardian:
    - a. Arizona driver's license issued on or after October 1, 1996;
    - b. Arizona identification card issued on or after October 1, 1996;
    - c. Arizona registry identification card;
    - d. Photograph page in the qualifying patient's custodial parent or legal guardian U.S. passport; or
    - e. Arizona driver's license or identification card issued before October 1, 1996 and one of the following for the qualifying patient's custodial parent or legal guardian:
      - i. Birth certificate verifying U.S. citizenship,
      - ii. U. S. Certificate of Naturalization, or
      - iii. U. S. Certificate of Citizenship;
  6. If the individual submitting the application on behalf of a qualifying patient is the qualifying patient's legal guardian, a copy of documentation establishing the individual as the qualifying patient's legal guardian;
  7. For the Department's criminal records check authorized in A.R.S. § 36-2804.05:
    - a. The qualifying patient's custodial parent or legal guardian's fingerprints on a fingerprint card that includes:
      - i. The qualifying patient's custodial parent or legal guardian's first name; middle initial, if applicable; and last name;
      - ii. The qualifying patient's custodial parent or legal guardian's signature;
      - iii. If different from the qualifying patient's custodial parent or legal guardian, the signature of the individual physically rolling the qualifying patient's custodial parent's or legal guardian's fingerprints;
      - iv. The qualifying patient's custodial parent's or legal guardian's address;
      - v. If applicable, the qualifying patient's custodial parent's or legal guardian's surname before marriage and any names previously used by the qualifying patient's custodial parent or legal guardian;
      - vi. The qualifying patient's custodial parent's or legal guardian's date of birth;
      - vii. The qualifying patient's custodial parent's or legal guardian's Social Security number;
      - viii. The qualifying patient's custodial parent's or legal guardian's citizenship status;

- ix. The qualifying patient's custodial parent's or legal guardian's gender;
  - x. The qualifying patient's custodial parent's or legal guardian's race;
  - xi. The qualifying patient's custodial parent's or legal guardian's height;
  - xii. The qualifying patient's custodial parent's or legal guardian's weight;
  - xiii. The qualifying patient's custodial parent's or legal guardian's hair color;
  - xiv. The qualifying patient's custodial parent's or legal guardian's eye color; and
  - xv. The qualifying patient's custodial parent's or legal guardian's place of birth; or
- b. If the qualifying patient's custodial parent's or legal guardian's fingerprints and information required in subsection (G)(7)(a) were submitted to the Department as part of an application for a designated caregiver or a dispensary agent registry identification card within the previous six months, the registry identification number on the registry identification card issued to the qualifying patient's custodial parent or legal guardian as a result of the application;
8. A written certification from the physician in subsection (G)(1)(i) and a separate written certification from the physician in (G)(1)(j) in a Department-provided format dated within 90 calendar days before the submission of the qualifying patient's application that includes:
- a. The physician's:
    - i. Name,
    - ii. License number including an identification of the physician license type,
    - iii. Office address on file with the physician's licensing board,
    - iv. Telephone number on file with the physician's licensing board, and
    - v. E-mail address;
  - b. The qualifying patient's name and date of birth;
  - c. An identification of one or more of the debilitating medical conditions in R9-17-201 as the qualifying patient's specific debilitating medical condition;
  - d. If the debilitating medical condition identified in subsection (G)(9)(c) is a condition in:
    - i. R9-17-201(9) through (13), the underlying chronic or debilitating disease or medical condition; or
    - ii. R9-17-201(14), the debilitating medical condition;
  - e. For the physician listed in subsection (G)(1)(i):
    - i. A statement that the physician has made or confirmed a diagnosis of a debilitating medical condition as defined in A.R.S. § 36-2801 for the qualifying patient;
    - ii. A statement, initialed by the physician, that the physician:
      - (1) Has established a medical record for the qualifying patient, and
      - (2) Is maintaining the qualifying patient's medical record as required in A.R.S. § 12-2297;
    - iii. A statement, initialed by the physician, that the physician has conducted an in-person physical examination of the qualifying patient within the previous 90 calendar days appropriate to the qualifying patient's presenting symptoms and the qualifying patient's debilitating medical condition diagnosed or confirmed by the physician;
    - iv. The date the physician conducted the in-person physical examination of the qualifying patient;
    - v. A statement, initialed by the physician, that the physician reviewed the qualifying patient's:
      - (1) Medical records including medical records from other treating physicians from the previous 12 months,
      - (2) Response to conventional medications and medical therapies, and
      - (3) Profile on the Arizona Board of Pharmacy Controlled Substances Prescription Monitoring Program database; and
    - vi. A statement, initialed by the physician, that the physician has explained the potential risks and benefits of the use of medical marijuana to the qualifying patient's custodial parent or legal guardian responsible for health care decisions for the qualifying patient;
  - f. For the physician listed in subsection (G)(1)(j), a statement, initialed by the physician, that the physician conducted a comprehensive review of the qualifying patient's medical records from other treating physicians;
  - g. A statement, initialed by the physician, that, in the physician's professional opinion, the qualifying patient is likely to receive therapeutic or palliative benefit from the qualifying patient's medical use of marijuana to treat or alleviate the qualifying patient's debilitating medical condition;
  - h. A statement, initialed by the physician, that if the physician has referred the qualifying patient's custodial parent or legal guardian to a dispensary, the physician has disclosed to the qualifying patient any personal or professional relationship the physician has with the dispensary;
    - i. An attestation that the information provided in the written certification is true and correct; and
    - j. The physician's signature and the date the physician signed; and
9. The applicable fees in R9-17-102 for applying for a:
- a. Qualifying patient registry identification card, and
  - b. Designated caregiver registry identification card.
- H. For purposes of this Article, "25 miles" includes the area contained within a circle that extends for 25 miles in all directions from a specific location.
- I. For purposes of this Article, "residence address" when used in conjunction with a qualifying patient means:

1. The street address including town or city and zip code assigned by a local jurisdiction; or
2. For property that does not have a street address assigned by a local jurisdiction, the legal description of the property on the title documents recorded by the assessor of the county in which the property is located.

\*\*\*\*

#### **R9-17-204. Renewing a Qualifying Patient's or Designated Caregiver's Registry Identification Card**

~~A. Except for a qualifying patient who is under 18 years of age, to renew a qualifying patient's registry identification card, the qualifying patient shall submit the following to the Department at least 30 calendar days before the expiration date of the qualifying patient's registry identification card:~~

1. An application in a Department-provided format that includes:
  - a. The qualifying patient's first name; middle initial, if applicable; last name; and suffix, if applicable;
  - b. The qualifying patient's date of birth;
  - c. Except as provided in subsection (A)(1)(j), the qualifying patient's residence address and mailing address;
  - d. The county where the qualifying patient resides;
  - e. The qualifying patient's e-mail address;
  - f. The registry identification number on the qualifying patient's current registry identification card;
  - g. The name, address, and telephone number of the physician providing the written certification for medical marijuana for the qualifying patient;
  - h. Whether the qualifying patient is requesting authorization for cultivating marijuana plants for the qualifying patient's medical use because the qualifying patient believes that the qualifying patient resides at least 25 miles from the nearest operating dispensary;
  - i. If the qualifying patient is requesting authorization for cultivating marijuana plants, whether the qualifying patient is designating the qualifying patient's designated caregiver to cultivate marijuana plants for the qualifying patient's medical use;
  - j. If the qualifying patient is homeless, an address where the qualifying patient can receive mail;
  - k. Whether the qualifying patient would like notification of any clinical studies needing human subjects for research on the medical use of marijuana;
  - l. An attestation that the information provided in the application is true and correct; and
  - m. The signature of the qualifying patient and the date the qualifying patient signed;
2. If the qualifying patient's name in subsection (A)(1)(a) is not the same name as on the qualifying patient's current registry identification card, one of the following with the qualifying patient's new name:
  - a. An Arizona driver's license,
  - b. An Arizona identification card, or
  - c. The photograph page in the qualifying patient's U.S. passport;
3. A current photograph of the qualifying patient;
4. A statement in a Department-provided format signed by the qualifying patient pledging not to divert marijuana to any individual who or entity that is not allowed to possess marijuana pursuant to A.R.S. Title 36, Chapter 28.1;
5. A physician's written certification in a Department-provided format dated within 90 calendar days before the submission of the qualifying patient's renewal application that includes:
  - a. The physician's:
    - i. Name,
    - ii. License number including an identification of the physician license type,
    - iii. Office address on file with the physician's licensing board,
    - iv. Telephone number on file with the physician's licensing board, and
    - v. E-mail address;
  - b. The qualifying patient's name and date of birth;
  - c. A statement that the physician has made or confirmed a diagnosis of a debilitating medical condition as defined in A.R.S. § 36-2801 for the qualifying patient;
  - d. An identification of one or more of the debilitating medical conditions in R9-17-201 as the qualifying patient's specific debilitating medical condition;
  - e. If the debilitating medical condition identified in subsection (A)(5)(d) is a condition in:
    - i. R9-17-201(9) through (13), the underlying chronic or debilitating disease or medical condition; or
    - ii. R9-17-201(14), the debilitating medical condition;
  - f. A statement, initialed by the physician, that the physician:
    - i. Has established a medical record for the qualifying patient, and
    - ii. Is maintaining the qualifying patient's medical record as required in A.R.S. § 12-2297;
  - g. A statement, initialed by the physician, that the physician has conducted an in-person physical examination of the qualifying patient within the previous 90 calendar days appropriate to the qualifying patient's presenting symptoms and the qualifying patient's debilitating medical condition diagnosed or confirmed by the physician;

- h. The date the physician conducted the in-person physical examination of the qualifying patient;
  - i. A statement, initialed by the physician, that the physician reviewed the qualifying patient's:
    - i. Medical records including medical records from other treating physicians from the previous 12 months,
    - ii. Response to conventional medications and medical therapies, and
    - iii. Profile on the Arizona Board of Pharmacy Controlled Substances Prescription Monitoring Program database;
  - j. A statement, initialed by the physician, that the physician has explained the potential risks and benefits of the medical use of marijuana to the qualifying patient;
  - k. A statement, initialed by the physician, that in the physician's professional opinion, the qualifying patient is likely to receive therapeutic or palliative benefit from the qualifying patient's medical use of marijuana to treat or alleviate the qualifying patient's debilitating medical condition;
  - l. A statement, initialed by the physician, that if the physician has referred the qualifying patient to a dispensary, the physician has disclosed to the qualifying patient any personal or professional relationship the physician has with the dispensary;
  - m. An attestation that the information provided in the written certification is true and correct; and
  - n. The physician's signature and the date the physician signed;
6. If the qualifying patient is designating a caregiver or if the qualifying patient's designated caregiver's registry identification card has the same expiration date as the qualifying patient's registry identification card, the following in a Department-provided format:
- a. The designated caregiver's first name; middle initial, if applicable; last name; and suffix, if applicable;
  - b. The designated caregiver's date of birth;
  - c. The designated caregiver's residence address and mailing address;
  - d. The county where the designated caregiver resides;
  - e. If the qualifying patient is renewing the designated caregiver's registry identification card, the registry identification number on the designated caregiver's registry identification card associated with the qualifying patient;
  - f. If the qualifying patient is designating an individual not previously designated as the qualifying patient's designated caregiver, the identification number on and a copy of the designated caregiver's:
    - i. Arizona driver's license issued on or after October 1, 1996;
    - ii. Arizona identification card issued on or after October 1, 1996;
    - iii. Arizona registry identification card;
    - iv. Photograph page in the designated caregiver's U. S. passport; or
    - v. Arizona driver's license or identification card issued before October 1, 1996 and one of the following for the designated caregiver:
      - (1) Birth certificate verifying U.S. citizenship,
      - (2) U. S. Certificate of Naturalization, or
      - (3) U. S. Certificate of Citizenship;
  - g. If the qualifying patient is designating an individual not previously designated as the qualifying patient's designated caregiver, one of the following:
    - i. A statement that the designated caregiver does not currently hold a valid registry identification card, or
    - ii. The assigned registry identification number for the designated caregiver for each valid registry identification card currently held by the designated caregiver;
  - h. A current photograph of the designated caregiver;
  - i. An attestation signed and dated by the designated caregiver that the designated caregiver has not been convicted of an excluded felony offense as defined in A.R.S. § 36-2801;
  - j. A statement in a Department-provided format signed by the designated caregiver:
    - i. Agreeing to assist the qualifying patient with the medical use of marijuana; and
    - ii. Pledging not to divert marijuana to any individual who or entity that is not allowed to possess marijuana pursuant to A.R.S. Title 36, Chapter 28.1; and
  - k. For the Department's criminal records check authorized in A.R.S. § 36-2804.05:
    - i. The designated caregiver's fingerprints on a fingerprint card that includes:
      - (1) The designated caregiver's first name; middle initial, if applicable; and last name;
      - (2) The designated caregiver's signature;
      - (3) If different from the designated caregiver, the signature of the individual physically rolling the designated caregiver's fingerprints;
      - (4) The designated caregiver's address;
      - (5) If applicable, the designated caregiver's surname before marriage and any names previously used by the designated caregiver;
      - (6) The designated caregiver's date of birth;
      - (7) The designated caregiver's Social Security number;
      - (8) The designated caregiver's citizenship status;
      - (9) The designated caregiver's gender;
      - (10) The designated caregiver's race;
      - (11) The designated caregiver's height;

- (12) The designated caregiver's weight;
  - (13) The designated caregiver's hair color;
  - (14) The designated caregiver's eye color; and
  - (15) The designated caregiver's place of birth; or
- ii. If the designated caregiver's fingerprints and information required in subsection (A)(6)(k)(i) were submitted to the Department as part of an application for a designated caregiver or a dispensary agent registry identification card within the previous six months, the registry identification number on the registry identification card issued to the designated caregiver as a result of the application;
- 7. If the qualifying patient's designated caregiver's registry identification card has the same expiration date as the qualifying patient's registry identification card and the designated caregiver's name in subsection (A)(6)(a) is not the same name as on the designated caregiver's current registry identification card, one of the following with the designated caregiver's new name:
    - a. An Arizona driver's license,
    - b. An Arizona identification card, or
    - c. The photograph page in the designated caregiver's U.S. passport; and
  - 8. The applicable fees in R9-17-102 for applying to:
    - a. Renew a qualifying patient's registry identification card; and
    - b. If applicable, issue or renew a designated caregiver's registry identification card.
- B. To renew a registry identification card for a qualifying patient who is under 18 years of age, the qualifying patient's custodial parent or legal guardian responsible for health care decisions for the qualifying patient shall submit to the Department the following:
- 1. An application in a Department-provided format that includes:
    - a. The qualifying patient's:
      - i. First name; middle initial, if applicable; last name; and suffix, if applicable; and
      - ii. Date of birth;
    - b. The qualifying patient's residence address and mailing address;
    - c. The county where the qualifying patient resides;
    - d. The registry identification number on the qualifying patient's current registry identification card;
    - e. The qualifying patient's custodial parent's or legal guardian's first name; middle initial, if applicable; last name; and suffix, if applicable;
    - f. The qualifying patient's custodial parent's or legal guardian's residence address and mailing address;
    - g. The county where the qualifying patient's custodial parent or legal guardian resides;
    - h. The qualifying patient's custodial parent's or legal guardian's e-mail address;
    - i. The registry identification number on the qualifying patient's custodial parent's or legal guardian's current registry identification card;
    - j. The name, address, and telephone number of a physician who has a physician-patient relationship with the qualifying patient and is providing the written certification for medical marijuana for the qualifying patient;
    - k. The name, address, and telephone number of a second physician who has conducted a comprehensive review of the qualifying patient's medical record maintained by other treating physicians, and is providing a written certification for medical marijuana for the qualifying patient;
    - l. Whether the qualifying patient's custodial parent or legal guardian is requesting approval for cultivating marijuana plants for the qualifying patient's medical use because the qualifying patient's custodial parent or legal guardian believes that the qualifying patient resides at least 25 miles from the nearest operating dispensary;
    - m. Whether the qualifying patient's custodial parent or legal guardian would like notification of any clinical studies needing human subjects for research on the medical use of marijuana;
    - n. A statement in a Department-provided format signed by the qualifying patient's custodial parent or legal guardian who is serving as the qualifying patient's designated caregiver:
      - i. Allowing the qualifying patient's medical use of marijuana;
      - ii. Agreeing to assist the qualifying patient with the medical use of marijuana; and
      - iii. Pledging not to divert marijuana to any individual who or entity that is not allowed to possess marijuana pursuant to A.R.S. Title 36, Chapter 28.1;
    - o. An attestation that the information provided in the application is true and correct; and
    - p. The signature of the qualifying patient's custodial parent or legal guardian and the date the qualifying patient's custodial parent or legal guardian signed;
  - 2. If the qualifying patient's custodial parent's or legal guardian's name in subsection (B)(1)(e) is not the same name as on the qualifying patient's custodial parent's or legal guardian's current registry identification card, one of the following with the custodial parent's or legal guardian's new name:
    - a. An Arizona driver's license,
    - b. An Arizona identification card, or
    - c. The photograph page in the qualifying patient's custodial parent's or legal guardian's U.S. passport;
  - 3. A current photograph of the qualifying patient;

4. A written certification from the physician in subsection (B)(1)(j) and a separate written certification from the physician in subsection (B)(1)(k) in a Department-provided format dated within 90 calendar days before the submission of the qualifying patient's renewal application that includes:
  - a. The physician's:
    - i. Name;
    - ii. License number including an identification of the physician license type;
    - iii. Office address on file with the physician's licensing board;
    - iv. Telephone number on file with the physician's licensing board, and
    - v. E-mail address;
  - b. The qualifying patient's name and date of birth;
  - c. An identification of one or more of the debilitating medical conditions in R9-17-201 as the qualifying patient's specific debilitating medical condition;
  - d. If the debilitating medical condition identified in subsection (B)(4)(c) is a condition in:
    - i. R9-17-201(9) through (13), the underlying chronic or debilitating disease or medical condition; or
    - ii. R9-17-201(14), the debilitating medical condition;
  - e. For the physician listed in subsection (B)(1)(j):
    - i. A statement that the physician has made or confirmed a diagnosis of a debilitating medical condition as defined in A.R.S. § 36-2801 for the qualifying patient;
    - ii. A statement, initialed by the physician, that the physician:
      - (1) Has established a medical record for the qualifying patient, and
      - (2) Is maintaining the qualifying patient's medical record as required in A.R.S. § 12-2297;
    - iii. A statement, initialed by the physician, that the physician has conducted an in-person physical examination of the qualifying patient within the previous 90 calendar days appropriate to the qualifying patient's presenting symptoms and the qualifying patient's debilitating medical condition diagnosed or confirmed by the physician;
    - iv. The date the physician conducted the in-person physical examination of the qualifying patient;
    - v. A statement, initialed by the physician, that the physician reviewed the qualifying patient's:
      - (1) Medical records including medical records from other treating physicians from the previous 12 months,
      - (2) Response to conventional medications and medical therapies, and
      - (3) Profile on the Arizona Board of Pharmacy Controlled Substances Prescription Monitoring Program database; and
    - vi. A statement, initialed by the physician, that the physician has explained the potential risks and benefits of the use of medical marijuana to the qualifying patient's custodial parent or legal guardian responsible for health care decisions for the qualifying patient;
  - f. For the physician listed in subsection (B)(1)(k), a statement, initialed by the physician, that the physician conducted a comprehensive review of the qualifying patient's medical records from other treating physicians;
  - g. A statement, initialed by the physician, that in the physician's professional opinion the qualifying patient is likely to receive therapeutic or palliative benefit from the qualifying patient's medical use of marijuana to treat or alleviate the qualifying patient's debilitating medical condition;
  - h. A statement, initialed by the physician, that if the physician has referred the qualifying patient's custodial parent or legal guardian to a dispensary, the physician has disclosed to the qualifying patient's custodial parent or legal guardian any personal or professional relationship the physician has with the dispensary;
  - i. An attestation that the information provided in the written certification is true and correct; and
  - j. The physician's signature and the date the physician signed; and
5. A current photograph of the qualifying patient's custodial parent or legal guardian;
6. For the Department's criminal records check authorized in A.R.S. § 36-2804.05:
  - a. The qualifying patient's custodial parent's or legal guardian's fingerprints on a fingerprint card that includes:
    - i. The qualifying patient's custodial parent's or legal guardian's first name; middle initial, if applicable; and last name;
    - ii. The qualifying patient's custodial parent's or legal guardian's signature;
    - iii. If different from the qualifying patient's custodial parent or legal guardian, the signature of the individual physically rolling the qualifying patient's custodial parent's or legal guardian's fingerprints;
    - iv. The qualifying patient's custodial parent's or legal guardian's address;
    - v. If applicable, the qualifying patient's custodial parent's or legal guardian's surname before marriage and any names previously used by the qualifying patient's custodial parent or legal guardian;
    - vi. The qualifying patient's custodial parent's or legal guardian's date of birth;
    - vii. The qualifying patient's custodial parent's or legal guardian's Social Security number;
    - viii. The qualifying patient's custodial parent's or legal guardian's citizenship status;
    - ix. The qualifying patient's custodial parent's or legal guardian's gender;
    - x. The qualifying patient's custodial parent's or legal guardian's race;
    - xi. The qualifying patient's custodial parent's or legal guardian's height;
    - xii. The qualifying patient's custodial parent's or legal guardian's weight;

- xiii. The qualifying patient's custodial parent's or legal guardian's hair color;
  - xiv. The qualifying patient's custodial parent's or legal guardian's eye color; and
  - xv. The qualifying patient's custodial parent's or legal guardian's place of birth; or
- b. If the qualifying patient's custodial parent's or legal guardian's fingerprints and information required in subsection (B)(6)(a) were submitted as part of an application for a designated caregiver or a dispensary agent registry identification card to the Department within the previous six months, the registry identification number on the registry identification card issued to the patient's custodial parent or legal guardian serving as the qualifying patient's designated caregiver as a result of the application; and
7. The applicable fees in R9-17-102 for applying to renew a:
- a. Qualifying patient's registry identification card, and
  - b. Designated caregiver's registry identification card.
- C. Except as provided in subsection (A)(6), to renew a qualifying patient's designated caregiver's registry identification card, the qualifying patient shall submit to the Department, at least 30 calendar days before the expiration date of the designated caregiver's registry identification card, the following:
1. An application in a Department-provided format that includes:
    - a. The qualifying patient's first name; middle initial, if applicable; last name; and suffix, if applicable;
    - b. The registry identification number on the qualifying patient's current registry identification card;
    - c. The designated caregiver's first name; middle initial, if applicable; last name; and suffix, if applicable;
    - d. The designated caregiver's date of birth;
    - e. The designated caregiver's residence address and mailing address;
    - f. The county where the designated caregiver resides;
    - g. The registry identification number on the designated caregiver's current registry identification card;
  2. If the designated caregiver's name in subsection (C)(1)(a) is not the same name as on the designated caregiver's current registry identification card, one of the following with the designated caregiver's new name:
    - a. An Arizona driver's license,
    - b. An Arizona identification card, or
    - c. The photograph page in the designated caregiver's U.S. passport;
  3. A current photograph of the designated caregiver;
  4. A statement in a Department-provided format signed by the designated caregiver:
    - a. Agreeing to assist the qualifying patient with the medical use of marijuana; and
    - b. Pledging not to divert marijuana to any individual or person who is not allowed to possess marijuana pursuant to A.R.S. Title 36, Chapter 28.1; and
  5. For the Department's criminal records check authorized in A.R.S. § 36-2804.05:
    - a. The designated caregiver's fingerprints on a fingerprint card that includes:
      - i. The designated caregiver's first name; middle initial, if applicable; and last name;
      - ii. The designated caregiver's signature;
      - iii. If different from the designated caregiver, the signature of the individual physically rolling the designated caregiver's fingerprints;
      - iv. The designated caregiver's address;
      - v. If applicable, the designated caregiver's surname before marriage and any names previously used by the designated caregiver;
      - vi. The designated caregiver's date of birth;
      - vii. The designated caregiver's Social Security number;
      - viii. The designated caregiver's citizenship status;
      - ix. The designated caregiver's gender;
      - x. The designated caregiver's race;
      - xi. The designated caregiver's height;
      - xii. The designated caregiver's weight;
      - xiii. The designated caregiver's hair color;
      - xiv. The designated caregiver's eye color; and
      - xv. The designated caregiver's place of birth; or
    - b. If the designated caregiver's fingerprints and information required in subsection (C)(1)(j)(i) were submitted as part of an application for a designated caregiver or a dispensary agent registry identification card to the Department within the previous six months, the registry identification number on the registry identification card issued to the designated caregiver as a result of the application; and
  6. The applicable fee in R9-17-102 for renewing a designated caregiver's registry identification card

\*\*\*\*

A. A dispensary shall:

1. Ensure that the dispensary is operating and available to dispense medical marijuana to qualifying patients and designated caregivers at least 30 hours weekly between the hours of 7:00 a.m. and 10:00 p.m.;
2. Develop, document, and implement policies and procedures regarding:
  - a. Job descriptions and employment contracts, including:
    - i. Personnel duties, authority, responsibilities, and qualifications;
    - ii. Personnel supervision;
    - iii. Training in and adherence to confidentiality requirements;
    - iv. Periodic performance evaluations; and
    - v. Disciplinary actions;
  - b. Business records, such as manual or computerized records of assets and liabilities, monetary transactions, journals, ledgers, and supporting documents, including agreements, checks, invoices, and vouchers;
  - c. Inventory control, including:
    - i. Tracking;
    - ii. Packaging;
    - iii. Accepting marijuana from qualifying patients and designated caregivers;
    - iv. Acquiring marijuana from other dispensaries; and
    - v. Disposing of unusable marijuana, which may include submitting any unusable marijuana to a local law enforcement agency;
  - d. Qualifying patient records, including purchases, denials of sale, any delivery options, confidentiality, and retention;  
*and*
  - e. Patient education and support, including:
    - i. Availability of different strains of marijuana and the purported effects of the different strains;
    - ii. Information about the purported effectiveness of various methods, forms, and routes of medical marijuana administration;
    - iii. Methods of tracking the effects on a qualifying patient of different strains and forms of marijuana; and
    - iv. Prohibition on the smoking of medical marijuana in public places;
3. Maintain copies of the policies and procedures at the dispensary and provide copies to the Department for review upon request;
4. Review dispensary policies and procedures at least once every 12 months from the issue date of the dispensary registration certificate and update as needed;
5. Employ or contract with a medical director;
6. Ensure that each dispensary agent has the dispensary agent's registry identification card in the dispensary agent's immediate possession when the dispensary agent *is*:
  - a. *Working* or providing volunteer services at the dispensary or the dispensary's cultivation site, or
  - b. *Transporting* marijuana for the dispensary;
7. Ensure that a dispensary agent accompanies any individual other than another dispensary agent associated with the dispensary when the individual is present in the enclosed, locked facility where marijuana is cultivated by the dispensary;
8. Not allow an individual who does not possess a dispensary agent registry identification card issued under the dispensary registration certificate to:
  - a. Serve as a principal officer or board member for the dispensary,
  - b. Serve as the medical director for the dispensary,
  - c. Be employed by the dispensary, or
  - d. Provide volunteer services at or on behalf of the dispensary;
9. Provide written notice to the Department, including the date of the event, within 10 working days after the date, when a dispensary agent no longer:
  - a. Serves as a principal officer or board member for the dispensary,
  - b. Serves as the medical director for the dispensary,
  - c. Is employed by the dispensary, or
  - d. Provides volunteer services at or on behalf of the dispensary;
10. Document and report any loss or theft of marijuana from the dispensary to the appropriate law enforcement agency;
11. Maintain copies of any documentation required in this Chapter for at least 12 months after the date on the documentation and provide copies of the documentation to the Department for review upon request;
12. Post the following information in a place that can be viewed by individuals entering the dispensary:
  - a. If applicable, the dispensary's approval to operate;
  - b. The dispensary's registration certificate;
  - c. The name of the dispensary's medical director and the medical director's license number on a sign at least 20 centimeters by 30 centimeters; and
  - d. The hours of operation during which the dispensary will dispense medical marijuana to a qualifying patient or a designated caregiver;

13. Not lend any part of the dispensary's income or property without receiving adequate security and a reasonable rate of interest;
  14. Not purchase property for more than adequate consideration in money or cash equivalent;
  15. Not pay compensation for salaries or other compensation for personal services that is in excess of a reasonable allowance;
  16. Not sell any part of the dispensary's property or equipment for less than adequate consideration in money or cash equivalent; and
  17. Not engage in any other transaction that results in a substantial diversion of the dispensary's income or property.
- B. If a dispensary cultivates marijuana, the dispensary shall cultivate the marijuana in an enclosed, locked facility.

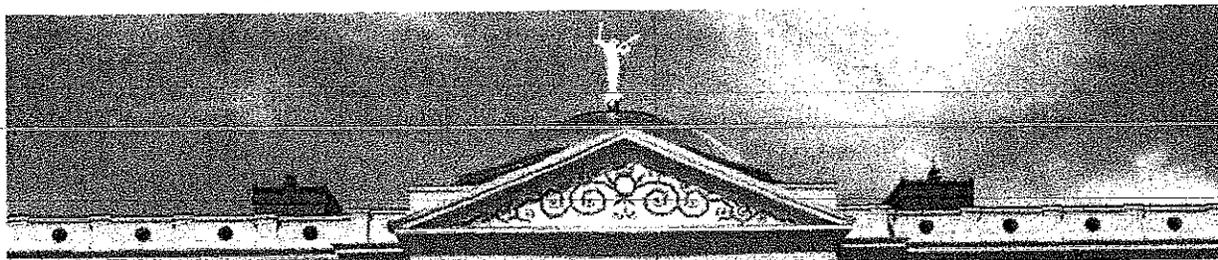
\*\*\*\*

**R9-17-313. Medical Director**

- A. A dispensary shall appoint an individual who is a physician to function as a medical director.
- B. During a dispensary's hours of operation, a medical director or an individual who is a physician and is designated by the medical director to serve as medical director in the medical director's absence is:
  1. Onsite; or
  2. Able to be contacted by any means possible, such as by telephone or pager.
- C. A medical director shall:
  1. Develop and provide training to the dispensary's dispensary agents at least once every 12 months from the initial date of the dispensary's registration certificate on the following subjects:
    - a. Guidelines for providing information to qualifying patients related to risks, benefits, and side effects associated with medical marijuana;
    - b. Guidelines for providing support to qualifying patients related to the qualifying patient's self-assessment of the qualifying patient's symptoms, including a rating scale for pain, cachexia or wasting syndrome, nausea, seizures, muscle spasms, and agitation;
    - c. Recognizing signs and symptoms of substance abuse; and
    - d. Guidelines for refusing to provide medical marijuana to an individual who appears to be impaired or abusing medical marijuana; and
  2. Assist in the development and implementation of review and improvement processes for patient education and support provided by the dispensary.
- D. A medical director shall provide oversight for the development and dissemination of:
  1. Educational materials for qualifying patients and designated caregivers that include:
    - a. Alternative medical options for the qualifying patient's debilitating medical condition;
    - b. Information about possible side effects of and contraindications for medical marijuana including possible impairment with use and operation of a motor vehicle or heavy machinery, when caring for children, or of job performance;
    - c. Guidelines for notifying the physician who provided the written certification for medical marijuana if side effects or contraindications occur;
    - d. A description of the potential for differing strengths of medical marijuana strains and products;
    - e. Information about potential drug-to-drug interactions, including interactions with alcohol, prescription drugs, non-prescription drugs, and supplements;
    - f. Techniques for the use of medical marijuana and marijuana paraphernalia;
    - g. Information about different methods, forms, and routes of medical marijuana administration;
    - h. Signs and symptoms of substance abuse, including tolerance, dependency, and withdrawal; and
    - i. A listing of substance abuse programs and referral information;
  2. A system for a qualifying patient or the qualifying patient's designated caregiver to document the qualifying patient's pain, cachexia or wasting syndrome, nausea, seizures, muscle spasms, or agitation that includes:
    - a. A log book, maintained by the qualifying patient and or the qualifying patient's designated caregiver, in which the qualifying patient or the qualifying patient's designated caregiver may track the use and effects of specific medical marijuana strains and products;
    - b. A rating scale for pain, cachexia or wasting syndrome, nausea, seizures, muscles spasms, and agitation;
    - c. Guidelines for the qualifying patient's self-assessment or, if applicable, assessment of the qualifying patient by the qualifying patient's designated caregiver; and
    - d. Guidelines for reporting usage and symptoms to the physician providing the written certification for medical marijuana and any other treating physicians; and
  3. Policies and procedures for refusing to provide medical marijuana to an individual who appears to be impaired or abusing medical marijuana.
- E. A medical director for a dispensary shall not provide a written certification for medical marijuana for any qualifying patient.

Arizona State Legislature

Bill Number Search:



Fifty-first Legislature - Second Regular Session

[change session](#) | [printer friendly version](#)

[Email a Member](#) | [Email Webmaster](#)

[Senate](#)   [House](#)   [Legislative Council](#)   [JLBC](#)   [More Agencies](#)   [Bills](#)   [Committees](#)   [Calendars/News](#)

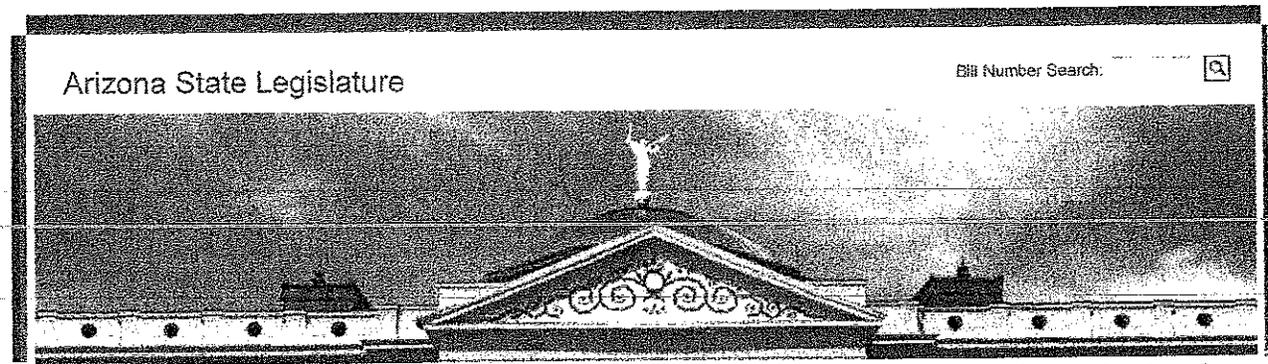
[ARS TITLE PAGE](#)   [NEXT DOCUMENT](#)   [PREVIOUS DOCUMENT](#)

**12-904. Commencement of action; transmission of record**

A. An action to review a final administrative decision shall be commenced by filing a notice of appeal within thirty-five days from the date when a copy of the decision sought to be reviewed is served upon the party affected. The method of service of the decision shall be as provided by law governing procedure before the administrative agency, or by a rule of the agency made pursuant to law, but if no method is provided a decision shall be deemed to have been served when personally delivered or mailed by certified mail to the party affected at the party's last known residence or place of business. Service is complete on personal service or five days after the date that the final administrative decision is mailed to the party's last known address. The notice of appeal shall identify the final administrative decision sought to be reviewed and include a statement of the issues presented for review. The statement of an issue presented for review is deemed to include every subsidiary issue fairly comprised in the statement.

B. Within ten days after filing a notice of appeal pursuant to this article, the party seeking judicial review shall file a notice of the action with the office of administrative hearings or the agency that conducted the hearing, and the office of administrative hearings or the agency that conducted the hearing shall transmit the record to the superior court. The record shall consist of the following:

1. The original agency action from which review is sought.
2. Any motions, memoranda or other documents submitted by the parties to the appeal.
3. Any exhibits admitted as evidence at the administrative hearing.
4. The decision by the administrative law judge and any revisions or modifications to the decision.
5. A copy of the transcript of the administrative hearing, if the party seeking judicial review desires a transcript to be included in the record and provides for preparation of the transcript at the party's own expense. Any other party may have a transcript included in the record by filing a notice with the office of administrative hearings or the agency that conducted the hearing within ten days after receiving notice of the notice of appeal and providing for preparation of the transcript at the party's own expense.

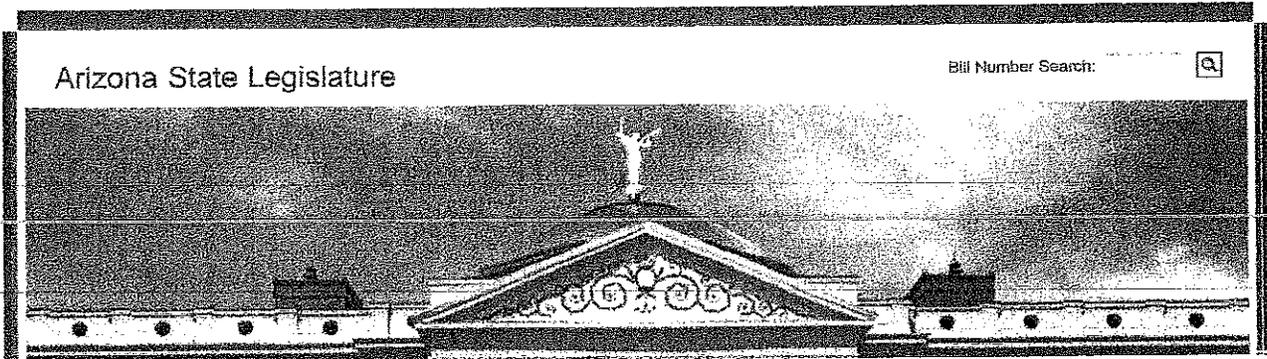


Fifty-first Legislature - Second Regular Session

[Email a Member](#) | [Email Webmaster](#)[change session](#) | [printer friendly version](#)[Senate](#)[House](#)[Legislative Council](#)[JLBC](#)[More Agencies](#)[Bills](#)[Committees](#)[Calendars/News](#)[ARS TITLE PAGE](#) [NEXT DOCUMENT](#) [PREVIOUS DOCUMENT](#)

#### 12-905. Jurisdiction and venue

- A. Jurisdiction to review final administrative decisions is vested in the superior court.
- B. If the venue of the action to review a final administrative decision is expressly prescribed in the statute under authority of which the decision was made, such venue shall control, but if the venue is not prescribed, an action to review a final administrative decision may be commenced in the superior court of any county in which any of the following conditions obtains:
1. Any part of the hearing or proceeding culminating in the decision of the administrative agency was held.
  2. Any part of the subject matter involved is situated.
  3. Any part of the transaction giving rise to the proceedings before the agency occurred.



Fifty-first Legislature - Second Regular Session

[change session](#) | [printer friendly version](#)

[Email a Member](#) | [Email Webmaster](#)

[Senate](#)   [House](#)   [Legislative Council](#)   [JLBC](#)   [More Agencies](#)   [Bills](#)   [Committees](#)   [Calendars/News](#)

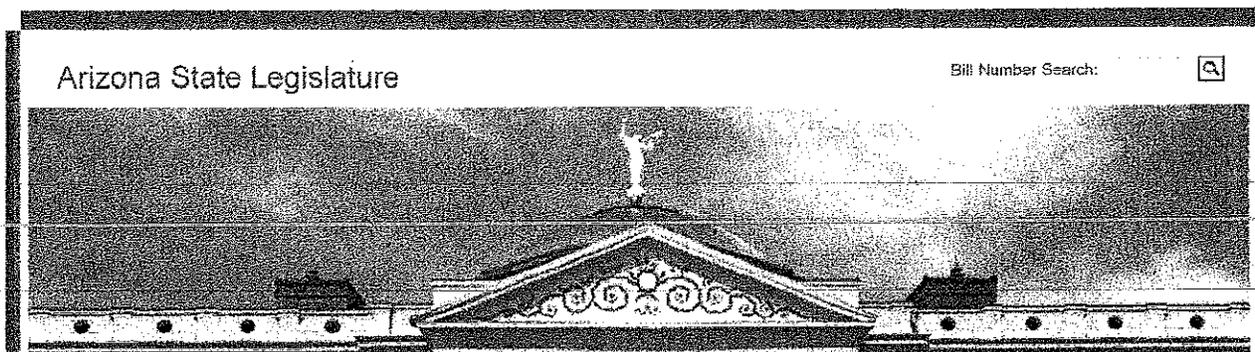
[ARS TITLE PAGE](#)   [NEXT DOCUMENT](#)   [PREVIOUS DOCUMENT](#)

**12-909. Pleadings and record on review**

A. The notice of appeal shall contain a statement of the findings and decision or part of the findings and decision sought to be reviewed.

B. Notwithstanding section 12-904, subsection B, by order of the court or by stipulation of all parties to the action, the record may be shortened or supplemented.

C. If the cause is remanded to the administrative agency and a review thereafter is sought of the administrative decision, the original and supplemental record, or so much thereof as is determined by court order or stipulation of all the parties, shall constitute the record on review.



Arizona State Legislature

Bill Number Search:



Fifty-first Legislature - Second Regular Session

[change session](#) | [printer friendly version](#)
[Email a Member](#) | [Email Webmaster](#)
[Senate](#)
[House](#)
[Legislative Council](#)
[JLBC](#)
[More Agencies](#)
[Bills](#)
[Committees](#)
[Calendars/News](#)
[ARS TITLE PAGE](#)
[NEXT DOCUMENT](#)
[PREVIOUS DOCUMENT](#)

#### 12-910. Scope of review

A. An action to review a final administrative decision shall be heard and determined with convenient speed. If requested by a party to an action within thirty days after filing a notice of appeal, the court shall hold an evidentiary hearing, including testimony and argument, to the extent necessary to make the determination required by subsection E of this section. The court may hear testimony from witnesses who testified at the administrative hearing and witnesses who were not called to testify at the administrative hearing.

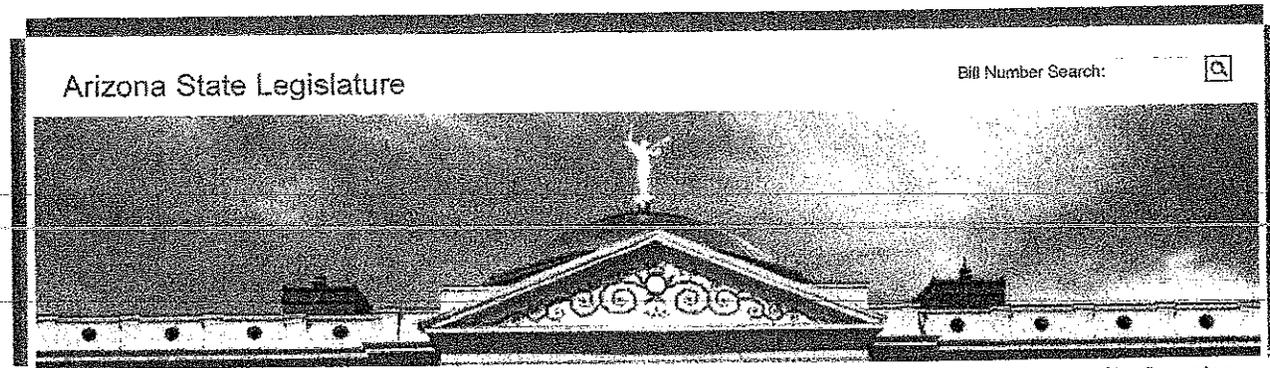
B. Relevant and admissible exhibits and testimony that were not offered during the administrative hearing shall be admitted, and objections that a party failed to make to evidence offered at the administrative hearing shall be considered, unless either of the following is true:

1. The exhibit, testimony or objection was withheld for purposes of delay, harassment or other improper purpose.
2. Allowing admission of the exhibit or testimony or consideration of the objection would cause substantial prejudice to another party.

C. For review of final administrative decisions of agencies that are exempt from sections 41-1092.03 through 41-1092.11, pursuant to section 41-1092.02, the trial shall be de novo if trial de novo is demanded in the notice of appeal or motion of an appellee other than the agency and if a hearing was not held by the agency or the proceedings before the agency were not stenographically reported or mechanically recorded so that a transcript might be made. On demand of any party, if a trial de novo is available under this section, it may be with a jury, except that a trial de novo administrative decision under section 25-522 shall be to the court.

D. The record in the superior court shall consist of the record of the administrative proceeding, and the record of any evidentiary hearing, or the record of the trial de novo.

E. The court may affirm, reverse, modify or vacate and remand the agency action. The court shall affirm the agency action unless after reviewing the administrative record and supplementing evidence presented at the evidentiary hearing the court concludes that the action is not supported by substantial evidence, is contrary to law, is arbitrary and capricious or is an abuse of discretion.



Arizona State Legislature

Bill Number Search:



Fifty-first Legislature - Second Regular Session

[Email a Member](#) | [Email Webmaster](#)
[change session](#) | [printer friendly version](#)
[Senate](#)
[House](#)
[Legislative Council](#)
[JLBC](#)
[More Agencies](#)
[Bills](#)
[Committees](#)
[Calendars/News](#)
[ARS TITLE PAGE](#)
[NEXT DOCUMENT](#)
[PREVIOUS DOCUMENT](#)

### 12-911. Powers of superior court

#### A. The superior court may:

1. With or without bond, unless required by the statute under authority of which the administrative decision was entered, and before or after the filing of the notice of appearance, stay the decision in whole or in part pending final disposition of the case, after notice to the agency and for good cause shown, except that the court shall not stay an administrative decision wherein unemployment compensation benefits have been allowed to a claimant pursuant to title 23, chapter 4.
2. Make any order that it deems proper for the amendment, completion or filing of the record of the proceedings of the administrative agency.
3. Allow substitution of parties by reason of marriage, death, bankruptcy, assignment or other cause.
4. Dismiss parties or realign parties appellant and appellee.
5. Modify, affirm or reverse the decision in whole or in part.
6. Specify questions or matters requiring further hearing or proceedings and give other proper instructions.
7. When a hearing has been held by the agency, remand for the purpose of taking additional evidence when from the state of the record of the administrative agency or otherwise it appears that such action is just.
8. In the case of affirmance or partial affirmance of an administrative decision requiring payment of money, enter judgment for the amount justified by the record and for costs, on which execution may issue.

B. Technical errors in the proceedings before the administrative agency or its failure to observe technical rules of evidence shall not constitute grounds for reversal of the decision, unless it appears to the superior court that the error or failure affected the rights of a party and resulted in injustice to him.

C. On motion of a party before rendition of judgment, the superior court shall make findings of fact and state conclusions of law on which its judgment is based.

WestlawNext **Arizona Court Rules**

[Home](#) [Table of Contents](#)

**Rule 1. Nature of the Special Action**  
 Arizona Revised Statutes Annotated  
 Rules of Procedure for Special Actions

Arizona Revised Statutes Annotated  
 Rules of Procedure for Special Actions

Special Action Against Body, Officer, or Person (Refs & Annos)

17B A.R.S. Special Actions, Rules of Proc., Rule 1

**Rule 1. Nature of the Special Action**

Currentness

(a) Relief previously obtained against a body, officer, or person by writs of certiorari, mandamus, or prohibition in the trial or appellate courts shall be obtained in an action under this Rule, and any reference in any statute or rule to any of these writs, unless excepted in the next subsection, shall be deemed to refer to the special action authorized under this Rule. Special forms and proceedings for these writs are replaced by the special action provided by this Rule, and designation of the proceedings as certiorari, mandamus, or prohibition is neither necessary nor proper. Except as authorized by statute, the special action shall not be available where there is an equally plain, speedy, and adequate remedy by appeal; and nothing in these rules shall be construed as enlarging the scope of the relief traditionally granted under the writs of certiorari, mandamus, and prohibition.

(b) Where a statute expressly authorizes proceedings under certiorari, mandamus, or prohibition, the proceedings shall be known as a statutory special action, as distinguished from those applications for writs of certiorari, mandamus, or prohibition, originating under A.R.S. §§ 12-2001, 12-2021 or the common law, which are special actions. Where a statutory special action is involved, the questions to be raised and considered are wholly unaffected by this Rule, but the provisions of this Rule as to parties, procedure, interlocutory orders and stays, and judgments shall apply.

**Editors' Notes**

**STATE BAR COMMITTEE NOTE**

(a) This Rule proposes to combine the traditional writs of certiorari, mandamus and prohibition into one proceeding, to be known as a "special action." The Rule is necessitated by the existing confusion as to the proper lines between these various writs, and by lack of a simple procedure which can be followed by all members of the bar and by the judiciary. Robert Leshner, in his article on Extraordinary Writs in the Appellate Courts of Arizona, 7 Ariz.L.Rev. 34 (1965) has said:

"One who seeks the extraordinary writ moves in a murky world where statutes seem designed merely to confuse, where written rules are either incomplete or lacking entirely, and where the only path is in the footsteps of those who have gone before, a good many of whom have fallen off the edge."

The following language used by The Honorable John F. Molloy in the A.L.I. pamphlet, Bernstein, Clark, Smith, Davis, Tullar, Brown, and Molloy, Extraordinary Writs in Arizona (1967), at pages 149 and 150 thereof, provides a summation of the necessity for the present rule:

"If special writs are to be used to affect litigants' rights as pervasively as is now being accomplished, then due process demands that the procedures to be followed must be set out with reasonable clarity. That such rules should be more streamlined and less technical than rules pertaining to ordinary civil actions is a desirable goal, but some ground rules we must have. Without rules, substantial rights may be lost because litigants and their counsel are understandably ignorant of the proper procedures to follow. Existing practice depends too much on the personal inclinations of judges, and too little on a rule of law."

The writs are constitutional in Arizona, Ariz.Const. Art. 6, §§ 5, 18, as amended, and the Rule does not alter their substance but merely establishes the procedure for obtaining their remedies. Under the special action, the relief obtainable includes any relief which was formerly granted under the labels of certiorari, mandamus, and prohibition. The Rule, which does not "abridge, enlarge, or modify substantive rights of a litigant" is authorized by A.R.S. § 12-109A, and is in the spirit of the rule-making authority illustrated in *Heat Pump Equipment Co. v. Glen Alden Corp.*, 93 Ariz. 361, 380 P.2d 1011 (1963), and cases cited therein. At the present time, Arizona has statutes on mandamus, A.R.S. §§ 12-2021 to 12-2029, and certiorari, A.R.S. §§ 12-2001 to 12-2007, but it has no statute at all on prohibition, so that there is no written law which can be followed in this regard. (The writ of quo warranto, A.R.S. §§ 12-2041 to 12-2045, is believed to be sufficiently different from the other three writs that it is not included here.) Moreover, the Arizona statutes on mandamus are themselves obsolete and limited; their deficiencies have been pointedly revealed by the Supreme Court in *Emery v. Superior Court*, 89 Ariz. 246, 360 P.2d 1025 (1961), which explains that under Arizona mandamus practice, we are still burdened with common law pleading, a condition which results in technicality, prolixity, and repetition in the documentation of a mandamus application.

Plagued by these and other limitations, New York has adopted a special action rule merging the three remedies, N.Y.Civ.Prac.Laws and Rules § 7801 (McKinney's 1963), and Colorado has to a considerable extent done the same, Colo.R.Civ.Proc. 106 (1964). By this Rule, Arizona follows their example, although with many specialized limitations due to the strong policy in this state that the writs are subordinate to and are not a substitute for appeal. The provision in this Rule, excluding use of the special action where there is an equally plain, speedy, and adequate remedy by appeal, is in accord with existing Arizona practice as to mandamus, *Morrison v. Stanford*, 100 Ariz. 211, 412 P.2d 708 (1966); prohibition, *Caruso v. Superior Court*, 100 Ariz. 167, 412 P.2d 463 (1966); and certiorari, *Genda v. Superior Court*, 103 Ariz. 240, 439 P.2d 811 (1968). The principles as to what is an "equally plain, speedy and adequate remedy by appeal" are wholly unchanged by this Rule, which is purely procedural, and the meaning of this phrase therefore will continue to depend upon the earlier Arizona cases under the writs and the normal development of the law. The New York experience, sought to be duplicated by the present Rule, has been that the unification of the three extraordinary writs has created no new remedies nor extended or prohibited old ones; but merely eliminated the forms of the old ones. *Bettman v. Michaelis*, 212 N.Y.S.2d 339 (1961); *Miller v. Leuci*, 105 N.Y.S.2d 115 (1951); *Hines v. State Board of Parole*, 181 Misc. 274, 47 N.Y.S.2d 535 (1943). The terms "inferior tribunal" and "corporation" presently found in A.R.S. §§ 12-2001, 12-2021 are meant to be included by the Rule language "body, officer, or person."

(b) In addition to the common law writs as described above, Arizona also extensively uses certiorari and mandamus as a kind of special or administrative review by statute. These special applications of these writs differ from the common law writs; they are not at all discretionary and they are not subordinate to a right of appeal—they are the right of appeal. This Rule does not in any way affect the substance of what should be determined in a statutory special action, as they are here labeled; but in order to provide a uniform method of handling such cases, the provisions of the special action Rule relating to parties, procedure, interlocutory orders and stays, and judgments are made applicable. The statutory provisions for certiorari and mandamus which are thus wholly unaffected as to substance are as follows:

**Certiorari:** A.R.S. § 2-330 (airport zoning); § 9-465 [repealed; see, now, §§ 9-462.05 and 9-462.06] (boards of adjustment); § 9-957 (firemen's pensions); § 11-402 (county officers); §§ 23-951, 23-1146 [repealed; see, now, § 23-951] (workmen's compensation); § 28-236 (highway patrol); § 32-1264 [repealed; see, now, § 32-1263] (dentistry licenses); and §§ 36-788, 36-1716 [renumbered as § 49-446 and repealed] (air pollution).

**Mandamus:** A.R.S. § 3-1010 (coliseum and exposition center bonds); § 11-808 (zoning); §§ 23-948, 23-951 (workmen's compensation); §§ 28-1578, 28-1585 (use tax); § 30-413 [renumbered as § 48-1603] (power districts); § 35-408 (public finance); § 36-1416 (municipal housing); § 36-1485 (slum clearance); § 38-431.03 (public officers); § 40-422 (public utilities); §§ 42-123 [renumbered as § 42-141], 42-204, 42-1339 [repealed; see, now, § 42-124], 42-1421 [repealed; see, now, § 42-124] (tax assessments and collections); § 43-186 [repealed] (income taxes); and §§ 45-1512 [renumbered as § 48-2912], 45-1731 [renumbered as § 48-3113] (irrigation districts).

Should any specific statutory certiorari, mandamus, or prohibition not have been listed, it is nonetheless intended to be covered by the reference to statutory special actions, which will also be applicable in the future should the Legislature see fit to create additional statutory special actions.

17B A. R. S. Special Actions, Rules of Proc., Rule 1, AZ ST SPEC ACT Rule 1  
Current with amendments received through 1/1/14

END OF DOCUMENT

© 2014 Thomson Reuters. No claim to original U.S. Government Works.

© 2014 Thomson Reuters