

<p>DISTRICT COURT, _____ COUNTY, COLORADO Court address</p> <hr/> <p>THE PEOPLE OF THE STATE OF COLORADO, v. _____, Defendant.</p> <hr/> <p>Attorneys for Defendant:</p>	<p>COURT USE ONLY</p> <hr/> <p>Case No.</p> <p>Division</p>
<p>MOTION TO CLARIFY PROBATION CONDITIONS AND REQUEST THAT SAME BE FILED UNDER SEAL</p>	

Defendant, through undersigned counsel, hereby moves for a clarification of his probation conditions on the ground that Defendant is a state-licensed medical marijuana patient who has received a physician’s recommendation to grow, possess, and use medical marijuana pursuant to the Colorado Constitution Article XVIII § 14; C.R.S. § 18-18-406.3; C.R.S. § 25-1.5-106 (medical marijuana); C.R.S. § 18-1.3-204(2)(a)(VIII) (controlled substances permitted for probationers with prescription) and as grounds therefore, states as follows:

1. Defendant was convicted of/pled guilty to [insert defense for which Defendant is on probation]. He has completed his public service and is making substantial progress toward paying the fines and costs, and remains on probation.

2. Defendant has a physician's recommendation to use medical marijuana (see Physician Certification, attached hereto and incorporated herein as Defendant's Exhibit 1), as well as a State of Colorado-issued Medical Marijuana Registry Card reflecting his status as a medical marijuana patient (see State of Colorado Medical Marijuana Registry, attached hereto and incorporated herein as Defendant's Exhibit 2).

3. In growing, using, and possessing marijuana, Defendant is in compliance with Colorado criminal laws and operates legally under the medical marijuana provisions of the Colorado Constitution, Article XVIII § 14. That section creates a constitutional right for patients or their primary care-givers to grow, possess, and use medical marijuana with a physician's recommendation, in an amount medically necessary.

4. Defendant falls under the Colorado Constitution's definition of a medical marijuana "patient." Colorado Constitution, Article XVIII § 14(1)(d) ("Patient" means a person who has a debilitating medical condition.").

5. The Colorado Constitution establishes an affirmative defense to Colorado criminal laws governing marijuana, available to both patients and primary care-givers alike, where the patient was diagnosed and advised by a physician "that the patient might benefit from the medical use of marijuana in connection with a debilitating medical condition." Colorado Constitution, Article XVIII § 14(2)(a).

6. Defendant requests that this motion and exhibits be filed under seal to protect and maintain the confidentiality of his medical records. See Colorado Constitution, Article XVIII § 14(8)(d) (criminal penalty for "breach of confidentiality of

information provided to or by the state health agency.”); C.R.S. § 18-18-406.3(5) (class 1 misdemeanor to make public confidential records of medical marijuana patients).

7. It is medically necessary for Defendant, as a medical marijuana patient, to grow, possess, and use medical marijuana.

8. Although Defendant is doing well on probation and has developed a positive rapport with his probation officer, Defendant anticipates the potential for problems with his probation if he continues to use his medical marijuana, and accordingly requests formal clarification from this Honorable Court that he is permitted to grow, possess, and use medical marijuana consistent with the provisions of the Colorado Constitution, Article XVIII § 14.

Wherefore, for all of the foregoing reasons and authorities, and those that will be shown at a hearing, Defendant respectfully requests that this Court enter an order clarifying that Defendant is permitted to grow, possess, and use medical marijuana, in quantities that are medically necessary and in accordance with Colorado Constitution, Article XVIII & XIV, during his probation and thereafter, and for an order that this motion and exhibits are to be maintained under seal and not part of the public court record in this case, and for other relief proper in the premises.

Date:

Respectfully submitted,

Attorney's name.

CERTIFICATE OF SERVICE

I hereby certify that on [Date], a copy of the foregoing **MOTION TO CLARIFY PROBATION CONDITIONS AND REQUEST THAT SAME BE FILED UNDER SEAL** was served in the manner indicated on the following:

Office of the District Attorney
Address of DA
(by U.S. Mail, postage prepaid)
