

<p>DISTRICT COURT [Insert jurisdiction], COLORADO [court address]</p> <hr/> <p>THE PEOPLE OF THE STATE OF COLORADO, v. [Defendant name], Defendant.</p> <hr/> <p>Attorney for Defendant: [insert attorney info]</p>	<p>ï COURT USE ONLY ï</p> <hr/> <p>Case No. [insert number]</p> <p>Courtroom</p>
<p align="center">MOTION TO DISMISS PURSUANT TO COLORADO CONSTITUTION ARTICLE XVIII § 14 - MEDICAL MARIJUANA</p>	

[Defendant’s name], through undersigned counsel, hereby moves that the charges in this case be dismissed, because [Defendant’s name] is a state-licensed caregiver of medical marijuana pursuant to the Colorado Constitution Article XVIII § 14; C.R.S. § 18-18-406.3, and C.R.S. § 25-1.5-106 and as grounds therefore, states as follows:

1. The complaint and information in this case charges the following counts against the Defendant: [insert charges, such as Count 1 alleges Cultivation of Marijuana, C.R.S. §18-18-406(8)(a)(I) (F4) and count 2 alleges Possession with Intent to Distribute Marijuana, C.R.S. §18-18-406(8)(b) (F4)].

2. In cultivating and possessing marijuana, the Defendant broke no Colorado criminal laws and operated 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 or possess medical marijuana with a physician's recommendation, in an amount medically necessary.

3. [If the Defendant is a patient, insert information explaining how he/she qualifies as a patient. Attach the state license and the recommendation from the doctor if possible]. The Defendant falls under the Colorado Constitution's definition of a medical marijuana patient and there is a complete exemption from state criminal law as long as the patient is within the limits set out in the law. *See* Colorado Constitution, Art. XVIII, § 14(2)(b).

4. [If the Defendant is a care-giver, insert information proving he/she is a care-giver] The Defendant falls under the Colorado Constitution's definition of "primary care-giver." Colorado Constitution, Article XVIII § 14(1)(f) ("Primary care-giver" is "a person, other than the patient and the patient's physician, who is eighteen years or older and has significant responsibility for managing the well-being of a patient who has a debilitating medical condition."). In this case, the Defendant is the primary care-giver to at least [list number of patients] medical marijuana patients who have received their physicians' recommendations. The Colorado Constitution establishes an affirmative defense, available to primary care-givers, 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).

5. [This section for care-givers only.] It is not necessary for patients to formally apply to the state health agency to avail themselves or their care-givers of the affirmative defense, only that they have the physician's recommendation. Colorado Constitution, Article XVIII § 14(2)(a). In this case, at least [number] of the patients to whom Defendant serves as primary care-giver have so applied and been accepted, and have been issued their medical marijuana registry numbers. Documents evidencing these patients, and the registry numbers, are filed separately under seal to protect their identities and maintain the confidentiality of their 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. [This section for care-givers only.] It is medically necessary for the Defendant as primary care-giver for these patients to grow and possess the amount of marijuana that was located at his home, which the government alleges is [numbers of plants] plants. The Colorado Constitution specifically provides that a patient or care-giver has a right to possess any amount if "medically necessary." Colorado Constitution, Article XVIII § 14(4)(b). In this case, the amount of medical marijuana grown and possessed by the Defendant was medically necessary for the three patients supplied to the Court.

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 dismissing the charges against Defendant, and for other relief proper in the premises.

Date: [date]

Respectfully submitted,

[attorney name]

CERTIFICATE OF SERVICE

I hereby certify that on [date], a copy of the foregoing **MOTION TO DISMISS PURSUANT TO COLORADO CONSTITUTION ARTICLE XVIII § 14 - MEDICAL MARIJUANA** was served in the manner indicated on the following:

Deputy District name and address
(by U.S. Mail, postage prepaid)
