



REPLY TO  
ATTENTION OF

**ARMY NATIONAL GUARD TRIAL DEFENSE SERVICE**  
4133<sup>d</sup> REGIONAL TRIAL DEFENSE TEAM, WEST REGION  
OREGON NATIONAL GUARD  
OFFICE OF THE REGIONAL DEFENSE COUNSEL  
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NGJA-OR-TDS

26 July 2010

MEMORANDUM FOR SOLDIERS with Medical Conditions prescribed Marinol

SUBJECT: USE OF MARINOL PRESCRIPTIONS

**1. References:**

- a. AR 600-85, PARA 3-4 (Medical Review)
- b. AR 40-501, PARA 3-30 (headaches)
- c. AR 135-178 (Enlisted Separations)

**2. QUESTION:** Can a Soldier obtain and use a prescription (Rx) for Marinol, specifically to control chronic headache pain, etc?

**3.. Marinol Background** (directly taken from webMD):

- a. Marinol Oral is used to treat the following: Loss of Appetite with HIV, Nausea and Vomiting caused by Cancer Drugs. This medication is used to treat nausea and vomiting caused by cancer chemotherapy. It is used when other drugs to control nausea and vomiting have not been successful. Dronabinol is also used to treat loss of appetite and weight loss in patients infected with HIV (the virus that causes AIDS). Dronabinol (also called THC) is a man-made form of the active natural substance in marijuana.
- b. How to use Marinol Oral. Take this medication by mouth as directed by your doctor. Dosage is based on your medical condition and response to therapy. If you are taking this medication to control nausea and vomiting, your dose is also based on your body size.
- c. Do not increase your dose or take this medication more often without your doctor's approval. Your risk of serious side effects may be increased. If you are taking dronabinol to stimulate appetite (for AIDS patients), do not take more than 20 milligrams per day unless approved by your doctor.
- d. This medication may cause withdrawal reactions, especially if it has been used regularly for a long time or in high doses. In such cases, withdrawal symptoms (such as irritability, trouble sleeping, restlessness, hot flashes, and diarrhea) may occur if you suddenly stop using this

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medication. To prevent withdrawal reactions, your doctor may reduce your dose gradually. Consult your doctor or pharmacist for more details, and report any withdrawal reactions immediately.

e. Although it is very unlikely to occur, this medication can also result in abnormal drug-seeking behavior (addiction/habit-forming). Do not increase your dose, take it more frequently or use it for a longer period of time than prescribed. Properly stop the medication when so directed. This will lessen the chances of becoming addicted.

f. Marinol Oral Side Effects.

1. Dizziness, drowsiness, confusion, feeling "high", an exaggerated sense of well-being, lightheadedness, headache, red eyes, dry mouth, nausea, vomiting, stomach pain, clumsiness, or unsteadiness may occur, especially during the first several days as your body adjusts to the medication. If any of these effects persist or worsen, notify your doctor or pharmacist promptly.

2. Remember that your doctor has prescribed this medication because he or she has judged that the benefit to you is greater than the risk of side effects. Many people using this medication do not have serious side effects.

3. Tell your doctor immediately if any of these unlikely but serious side effects occur: weakness, flushing of the face, fast/pounding heartbeat, mental/mood changes (e.g., difficulty concentrating, memory loss, hallucinations, abnormal thoughts, paranoia, depression, nervousness), slurred speech, ringing in the ears, vision changes, fainting.

4. It is important that you take this medication under the supervision of a responsible adult because mental, mood, or behavior changes may occur. If you experience any such effects, remain calm and try not to panic. Tell your doctor immediately. Do not take any more dronabinol until after you consult with your doctor.

5. A very serious allergic reaction to this drug is unlikely, but seek immediate medical attention if it occurs. Symptoms of a serious allergic reaction may include: rash, itching/swelling (especially of the face/tongue/throat), severe dizziness, trouble breathing.

6. This is not a complete list of possible side effects. If you notice other effects not listed above, contact your doctor or pharmacist.

g. Marinol Oral Precautions.

1. Before taking dronabinol, tell your doctor or pharmacist if you are allergic to it; or to marijuana or sesame oil; or if you have any other allergies. This product may contain other inactive ingredients, which can cause allergic reactions or other problems. Talk to your pharmacist for more details.

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2. Before using this medication, tell your doctor or pharmacist your medical history, especially of: regular use/abuse of drugs/alcohol/other substances, heart disease, high blood pressure, mental/mood conditions (e.g., mania, depression, schizophrenia), seizure disorder.

3. This drug may make you dizzy or drowsy or affect your judgment. Do not engage in activities requiring alertness and clear thinking, such as driving or using machinery, until you know how this medication affects you and until you are sure you can perform such activities safely. Alcohol can worsen these side effects. Avoid alcoholic beverages.

4. To minimize dizziness and lightheadedness, get up slowly when rising from a seated or lying position.

5. Caution is advised when using this drug in the elderly because they may be more sensitive to its effects, especially drowsiness and mental/mood changes.

6. Caution is advised when using this drug in children because they may be more sensitive to its effects, especially drowsiness and mental/mood changes.

7. This medication is not recommended for use during pregnancy because of possible unborn baby/infant harm reported with marijuana exposure (dronabinol contains the active substance found in marijuana). Consult your doctor for more details.

8. This drug passes into breast milk. Therefore, breast-feeding is not recommended while using this drug. Consult your doctor before breast-feeding.

4. **ANSWER.** Probably yes, but not advised - because the fact of the use will likely result in a medical evaluation for whether the use is legitimate, and may result in a Medical Evaluation Board a (MEB) and eventual separation for the underlying medical reasons purportedly being the basis for the use of Marinol. The use of Marinol is not recommended even though there is a defense to a possible positive urinalysis (UA) for THC for Marijuana. If used, the use would need to be entirely legitimate in purpose and amount of use, and not subterfuge for smoking marijuana.

5. **DISCUSSION.** Whether a Soldier can use an Rx for Marinol likely goes beyond the Marinol use. If there is a legitimate Rx for Marinol then AR 600-85 discusses the Medical Review of the test. Now if the THC level is too high, beyond what normal use of Marinol might be, then the use may be considered not legitimate (just covering up regular smoked Marijuana because the nanogram level is inconsistent with Marinol). Regardless, however, the use of Marinol will likely result in a Medical Evaluation Board evaluation unless the medical authority performing the review finds the use legitimate, and that the Soldier can function with the use and perform duties. Thus, Marinol with its side effects may create its own problems to an underlying medical issues making its use very problematic for continued service in the military. Legitimate use probably will be determined in whether Marinol is a recognized treatment. Headaches are discussed in paragraph 3-30 of AR 40-501.

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a. Para 3-30 of AR 40-501 – “Migraine, tension, or cluster headaches, when manifested by frequent incapacitating attacks. All such Soldiers will be referred to a neurologist, who will ascertain the cause of the headaches. If the neurologist feels a trial of prophylactic medicine is warranted, a 3-month trial of therapy can be initiated. If the headaches are not adequately controlled at the end of the 3 months, the Soldier will undergo an MEB for referral to a PEB. If the neurologist feels the Soldier is unlikely to respond to therapy, the Soldier can be referred directly to MEB.”

1. So, if a Soldier has conditions that may have allowed a doctor to issue an Rx for Marinol, in particular migraines, then the medical review authority will refer to a neurologist per the regulation.

2. While there is no Army authority requiring pre-disclosure for legitimate Rx for controlled substances (until for example there is a Urinalysis (UA), physicians health assessment or physical), it is likely that a Soldier should consider declaring the prescription to the commander, coordinate with medical, and get it in their medical records, though that would likely spawn the referral for the evaluation and the possible MEB separation. This is because if the Soldier does not disclose, and is using a heavy pain killer, Marinol or something, and say is at the firing range, or has an accident in a Government Vehicle, where the drug is causing them to be adversely affected to a perceptible degree, then the use and failure to disclose to command could be dereliction of duty subjecting them to their States’ military code discipline.

3. Thus, a legitimate Rx for Marinol is probably a legal defense, but may result in an evaluation and possible MEB and medical separation under AR 40-501 for either the adverse affects of Marinol or the underlying medical problem. Regardless of whether Marinol controls the headaches or other condition, the MEB may find that the Marinol as prescribed to be inconsistent with the normal treatment scheme for prophylactic medicines that might be prescribed. In other words, for the use to be authorized in the military, the Medical Command would have to find legitimate use (purpose and amount), and under the regulation - "If the MRO determines there is a legitimate medical explanation for the positive test result, the MRO shall determine that the result is consistent with legal drug use and take no further action." They may find that Marinol is not a legitimate use for purpose, or being inconsistent with the nanogram level shown.

6. **CONCLUSION.** A Soldier may obtain a legitimate Rx for Marinol to control a legitimately diagnosed condition, and use the Rx within the prescribed parameters, but the use itself with its possible adverse effects, or the underlying condition, may result in a medical review and possible medical evaluation board; and if a positive UA for THC is shown then a medical review will take place, and if the review does not find the use legitimate in purpose and amount then a MEB will be convened to consider medical separation. Since the command must initiate separation with a positive UA under AR 135-178, the Soldier will be wanting to pursue the defense of a legitimate Rx for Marinol, and concurrently will likely need to process the matter through the AR 40-501 process for evaluation for legitimacy, and if the medical finding is that it is not legitimate then ordinarily the Soldier’s better option will be for medical discharge rather than facing a separation board. At such time of a positive UA a Soldier is best advised to consult with JAG defense counsel as soon as possible to consider the options, strength of the Government’s case, etc. Generally

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speaking, a Soldier with a Rx for some other controlled substance medication will be facing the same similar legal and factual situation for the regular use of the drug.

7. **DISCLAIMER.** Nothing in this memorandum is legal advice and does not substitute for the advice of an attorney or Judge Advocate in your jurisdiction providing you direct advice on your factual situation. You should not rely solely on this memorandum without the advice of an attorney on this subject under your circumstances.

8. POC for this memorandum is the current Regional Senior Defense Counsel. The 4133 RDC, RSDC and TDC can be emailed at [NGOR.JAG.4133.TDS@ng.army.mil](mailto:NGOR.JAG.4133.TDS@ng.army.mil). Website located at <http://www.oregon.gov/OMD/JAG>.

*Original Signed*

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