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The Honorable Robert Ferguson
Attorney General
Office of the Attorney General
1125 Washington Street SE
P.O. Box 40100
Olympia, WA 98504-0100

Re.: Request for Attorney General Opinion

Dear Attorney General Ferguson:

I am respectfully writing you to request your formal opinion regarding a potential allowable and reimbursable retirement benefit under RCW 41.26, the Law Enforcement Officer and Fire Fighters Pension System ("LEOFF 1"). The Yakima County Disability Board and I pose the following question: *Would Yakima County be in jeopardy of losing federal funding, or otherwise be in violation of the law, if the Yakima County Disability Board reimbursed members, covered under the Department of Retirement Systems Law Enforcement Officers and Fire Fighters Plan 1 (LEOFF 1), for medical marijuana?* We ask this question because of the conflict between state and federal law as it relates to the use of marijuana.

As you are aware, the Yakima County Disability Board, under the authority of RCW 41.26, has broad authority and discretion to approve reimbursement of medical claims for LEOFF 1 members. Please see the following statutory provisions:

RCW 41.26.150 Sickness or disability benefits – Medical services. This directs that the "employer shall pay for the active or retired member the necessary medical services not payable from some other source..."

RCW 41.26.030 (19) defines what "Medical services" are for plan 1 members. It states that medical services shall include [the following] as minimum services to be provided. Reasonable charges for these services shall be paid in accordance with RCW 41.26.150.

RCW 41.26.030 (19) (iii) (A):

(iii) The charges for the following medical services and supplies:

(A) Drugs and medicines upon a physician's prescription;

The issue is raised by the Yakima County Disability Board, knowing that Cannabis is still a Class 1 Felony at the Federal level, and a LEOFF I member who has rights under RCW 41.26.030 which mandates payment for "drugs and medicines upon a physician's prescription." State Law appears to be in direct conflict with Federal Laws with regards to Medical Marijuana.

The LEOFF 1 member has malignant neoplasm of the prostate and has been issued a Washington State Medical Marijuana Authorization Form by Dr. Richard S. Wilkinson, Yakima, WA pursuant to RCW 69.51a. After following mainstream treatment, he turned to a marijuana retailer with a medical marijuana endorsement issued by the Washington State Liquor and Cannabis Board pursuant to RCW 69.50.375. Cancer is one of the qualified medical conditions approved by the Washington State Legislature for use of medical marijuana under RCW 69.51.010(24) (a).

The Yakima County Disability Board is reluctant to make a determination in this case and does not want to compromise any Federal funding Yakima County will or might receive in the future. I, as the Yakima County Prosecutor, am unable to guide the Board at this point in interpreting RCW 41.26 and how it relates to allowing the financial reimbursement to this LEOFF plan 1 member.

Thank you in advance for any assistance and guidance you can provide on this very important issue. Please let me know if there are any additional questions you might have or any additional information you will need in providing your opinion.

Sincerely,



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