



Attorney General Bill Schuette

*Presents*

Clearing the Air: Implementing and Enforcing  
Michigan's Medical Marijuana Law

*A seminar for law enforcement professionals and local government officials*





## Clearing the Air: Implementing and Enforcing Michigan's Medical Marijuana Law

*A seminar for law enforcement professionals and local government officials*

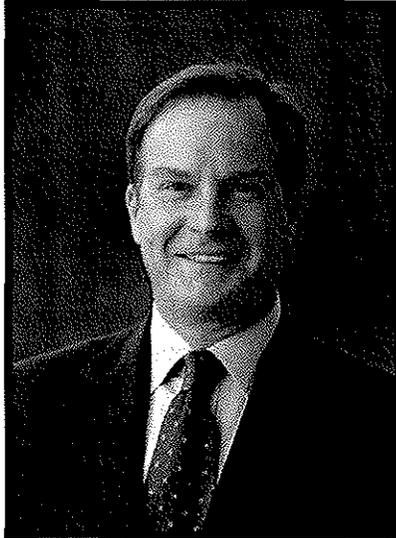
### AGENDA

- 8:30-9:00 Registration and complimentary continental breakfast
- 9:00-9:10 Welcome and introductory remarks
- 9:10-9:30 Overview of the Michigan Medical Marijuana Program  
Celeste Clarkson, Department of Licensing and Regulatory Affairs
- 9:30-10:15 Overview of recent court rulings and pending issues  
Ken Stecker, Prosecuting Attorneys Association of Michigan
- 10:15-10:30 Review of recent Attorney General Opinions and amicus curiae briefs  
Heather Meingast, Michigan Department of Attorney General
- 10:30-10:45 Break
- 10:45-11:15 Local Zoning Issues and the Medical Marijuana Act  
Professor Gerry Fisher, Thomas M. Cooley Law School
- 11:15-11:45 Law Enforcement Challenges and the Medical Marijuana Act  
D/F/Lt. Tim Gill or D/Lt. Robyn Lynde, Michigan State Police
- 11:45-12:00 Legislative Corrections to the Medical Marijuana Act  
Alan Cropsey, Michigan Department of Attorney General
- 12:00-1:00 Lunch Speaker: "Marijuana: Medical miracle? Or more snake oil?"  
Dr. William Morrone, D.O.









Attorney General Bill Schuette

## BIOGRAPHY

Bill Schuette was elected as Michigan's 53rd Attorney General in November 2010 and took office January 1, 2011. His priorities include protecting public safety by enforcing the rule of law, advocating for crime victims, protecting the Great Lakes, cracking down on public corruption and human trafficking, and defending the Constitution.

Bill Schuette has extensive experience in both federal and state government and has served Michigan in the executive, legislative and judicial branches of government for three decades.

Bill Schuette's commitment to public service began in 1984 when he was elected to the United States House of Representatives. At the age of 31, he was one of the youngest Congressmen in America. During his three terms in Congress, Schuette served on the House Budget Committee, the House Agriculture Committee and the Select Committee on Aging.

In January of 1991, Bill was named Director of the Michigan Department of Agriculture. As a member of Governor John Engler's cabinet, his policy responsibilities were diverse, ranging from agribusiness export development to environmental stewardship initiatives for production agriculture.

In 1994, Bill was elected to the Michigan Senate, representing Michigan's 35th Senate District. During his eight years in the Senate, Bill served on the Judiciary Committee, the Technology and Energy Committee, the Gaming and Casino Oversight Committee and was Chairman of the Economic Development Committee and Chairman of the Reapportionment Committee.

In November of 2002, Bill Schuette was elected to the Michigan Court of Appeals and served for 6 years as one of 28 appellate judges in Michigan. Following his judicial service, Bill served as Senior Counsel at the law firm of Warner, Norcross & Judd from 2009 to 2010.

A native of Midland, Michigan, Bill Schuette graduated cum laude from Georgetown University in 1976, receiving a Bachelor of Science in the Foreign Service. He also studied at the University of Aberdeen in Scotland. Bill earned his law degree from the University of San Francisco in 1979. In 2005, Bill received an honorary Doctor of Laws degree from Northwood University.

Schuette and his wife, the former Cynthia Grebe, are the parents of Heidi and Billy.

# Clearing the Air: Implementing and Enforcing Michigan's Medical Marijuana Law

As Michigan's top law enforcement officer, Attorney General Bill Schuette is working together with law enforcement, the medical community, and prosecutors to end criminal exploitation of loopholes in Michigan's Medical Marijuana law. Bill Schuette is working to protect public safety by supporting local authorities in court to ensure the law is clearly defined and enforced, including efforts to enforce the prohibition on illegal dispensaries. Schuette is also working with legislators to craft legislation to close loopholes in the law and providing guidance to prosecutors through formal Attorney General Opinions and other educational efforts. Today, he has brought together a group of experts to help provide instruction on this emerging area of the law.

## **BIOGRAPHICAL INFORMATION**

**Celeste Clarkson** Celeste Clarkson is the Manager for the Compliance Section with the Health Regulatory Division, Bureau of Health Professions, Michigan Department of Licensing and Regulatory Affairs (LARA). The Medical Marihuana Unit, Freedom of Information (FOIA) Unit, Sanction Monitoring Unit, and the Health Professional's Recovery Program, all comprise the Compliance Section.

Ms. Clarkson has over 15 years of experience with the State of Michigan. She has worked in the Enforcement Section for the Bureau of Commercial Services, in what is now the Department of Licensing and Regulatory Affairs, and most recently with the Michigan Gaming Control Board as an investigator in its Supplier Licensing Section. She began working with the Department of Community Health in December 2008.

Previously, Ms. Clarkson was a dispatcher, corrections officer, detective, and road patrol officer with the Ingham County Sheriff's Office and the Lansing Township Police Department. She also served in the capacity as an Assistant Jail Administrator with the Ingham County Sheriff's Office.

**Ken Stecker** Kenneth Stecker graduated from Loyola Marymount University in 1984, and the University of Detroit School of Law in 1987. After law school, he accepted a position to be a law clerk for the Honorable Lawrence C. Root in Mecosta County. Two years later he went to work for the Kalamazoo County Prosecutor's Office as an assistant prosecuting attorney.

In 1992, he went to work for the Branch County Prosecutor's Office as an assistant prosecuting attorney. In 2001, he was appointed to be the Branch County Chief Assistant Prosecuting Attorney. In both county prosecutors' offices, Mr. Stecker prosecuted every traffic offense imaginable from civil infractions to vehicular homicide. On March 31, 2008, he was selected as PAAM's Traffic Safety Resource Prosecutor.

Mr. Stecker also has extensive teaching experience as an adjunct member at Kellogg Community College for the past 15 years. Additionally, he also served on the Michigan Juvenile Justice Committee. Mr. Stecker is very active in his community, and is a member of several professional and community groups.

Heather  
Meingast

Heather S. Meingast has been with the Attorney General's Office since February 2004, and currently serves as the Division Chief for the Opinions Division, overseeing the opinions process provided for in MCL 14.32, and participating in special projects and litigation. She previously served in the Appellate Division and the Public Employment, Elections, and Tort Division. Before joining the Attorney General's office, Ms. Meingast worked in private practice, and for the Michigan Court of Appeals and the Michigan Supreme Court. She earned her J.D. magna cum laude from Detroit College of Law at Michigan State University in 1998.

Gerald Fisher

Having served as general counsel for cities, villages and townships for more than 25 years, Gerald Fisher is now a Professor of Law at the Thomas M. Cooley Law School, where he teaches Property Law, Constitutional Law, and Municipal Law.

Mr. Fisher is the chairperson of the Oakland County Parks and Recreation Commission, a member and past chairperson of the State Bar Public Corporation Law Section, and serves on the Oakland County Bar Foundation Board.

He is a co-author of the reference book entitled *Michigan Zoning, Planning, and Land Use*, published by the Institute of Continuing Legal Education, and is a contributing co-editor for a forthcoming new reference book for the Institute of Continuing Legal Education entitled *Michigan Municipal Law*, anticipated to be available early next year.

Mr. Fisher has appeared on several occasions in the Michigan Supreme Court on municipal and land use law cases, and continues to serve as a consultant in municipal law matters. Relevant to today's program, he is the author of the White Paper commissioned by the

Michigan Municipal League and Michigan Townships Association entitled *A Local Government View of the Michigan Medical Marijuana Law*.

D/F/Lt. Tim Gill

Detective First Lieutenant (D/F/Lt.) Timothy Gill is a native of the Lansing area and has been employed by the Michigan State Police for twenty-five years. He is the Commander of the First District Task Force Section, supervising three undercover drug teams, encompassing six counties. Tim also serves as a Public Information Officer (PIO) for the Michigan State Police.

Lieutenant Gill is a 2001 graduate of the Northwestern University Police Staff and Command School. He has extensive expertise and training in the area of Narcotics Enforcement and has been previously sworn as an expert witness by several courts in the area of narcotics enforcement. He has assisted with training of new undercover officers at MSP Basic and Advanced Narcotic Schools. He has also taught at Drug Interdiction Schools held around the state for local agencies and officers.

With 48 marijuana dispensaries located in Lansing prior to the recent ruling by the Court of Appeals, Lieutenant Gill's teams have been at the forefront of investigations involving dispensaries. Lieutenant Gill has also served on legislative work groups looking at ways to clean up problems the current Medical Marijuana Act.

Lieutenant Gill also works with prevention and treatment professionals and is a member of the Board of Directors of the Michigan Association of Alcohol and Drug Addiction Counselors. He is also a member of the Tri-County Area Alcohol Awareness Committee, which is a group of prevention, treatment, law enforcement, school, and business professionals that work to reduce underage drinking. These efforts include the Safe Prom Initiative, which he conceived and implemented, and an annual youth talent show for high school students named Tri County's Got Talent.

D/Lt. Robyn Lynde

Detective Lieutenant (D/Lt.) Robyn Lynde is a native of the Lansing area and has been employed by the Michigan State Police for twenty-four years. She has been assigned to narcotics enforcement for 19 years and is currently a Team Leader for the Tri-County Metro Narcotics Squad in Lansing. Her team encompasses Ingham, Eaton and Clinton counties. With 48 marijuana dispensaries located in Lansing, her team has been at the forefront of investigations involving dispensaries.

Detective Lieutenant Lynde is a 1985 graduate of Central Michigan University and holds a Bachelor of Science degree in Education. She has extensive expertise and training in the area of narcotics enforcement and has been previously sworn Drug Enforcement Administration (DEA) Task Force Officer. She has been sworn as an expert witness by several courts in the area of narcotics trafficking enforcement and has assisted with training of new undercover officers at MSP Basic and Advanced Narcotic Schools.

Alan Cropsey

Alan Cropsey is the Director of Legislative Relations for Attorney General Bill Schuette. He formerly served as Floor Leader of the Michigan State Senate from 2007-2010. Prior to that, he chaired the Senate Judiciary Committee from 1983-1986 and 2003-2006. As chairman he worked with the Prosecuting Attorneys Association of Michigan, Michigan Sheriff's Association and other law enforcement organizations to stop legislation that would harm the public safety and sponsored legislation that promoted public safety and the rights of victims.

Mr. Cropsey holds a B.S. in mathematics education and a composite science minor from Bob Jones University, as well as a J.D. from Thomas M. Cooley Law School. Mr. Cropsey was a partner at the law firm of Kallman & Cropsey from 1987-1991, and a teacher from 1975-1978. In 1980, President Ronald Reagan appointed him to the Intergovernmental Advisory Council on Education (IACE), and reappointed him in 1983.

In 1986, Mr. Cropsey served as a member on the Advisory Committee to the National Juvenile Justice Reform Project. In 1986, he served as chairman of the Criminal Justice Section on the Source Book of Model Legislation for American Legislative Exchange Council (ALEC). From 1979-1982 and 1993-1998, he served in the Michigan House of Representatives. From 1983-1990 and 2003-2010, he served in the Michigan State Senate. Mr. Cropsey has served on the Appropriations Committee and various Subcommittees, including: Judiciary and Corrections (Chair); State Police and Military Affairs (Vice Chair); Transportation (Vice Chair); Capital Outlay; Standing Committee (Vice Chair). As the chairman of the Corrections Subcommittee of the Appropriations Committee he encouraged the Granholm administration to not close prisons and harm public safety, but to look at ways to bring down the excessive costs of state incarceration.

Dr. William  
Morrone

Dr. William R. Morrone, D.O., M.S., currently works as Assistant Director of Family Medicine at Synergy Medical Education Alliance (an affiliate of Michigan State University), Medical Director at Hospice of Michigan, and as an consulting liaison addictionologist with the Department of Psychiatry in the juvenile justice system through Wolverine Human Services; all in Tuscola and Saginaw counties, in Michigan.

Dr. Morrone is a graduate of Michigan State University (MSUCOM) completing an internship in internal medicine and residency in family medicine. He is board certified by the American College of Osteopathic Family Practitioners and certified by both American Academy of Pain Management and American Society of Addiction Medicine. He also holds national certification as a Certified Pain Educator through the American Society of Pain Educators as well as Certified Forensic Physician through the American College of Forensic Examiners. He was a former National Health Service Corps Scholar and worked with the underserved population of inner city Saginaw. He also holds a graduate degree in toxicology and pharmacology from the University of Missouri at Kansas and currently serves as a Medical Examiner.

Dr. Morrone has also earned the status of assistant professor in family medicine by the Michigan State University College of Human Medicine.

**Contact the Attorney General**

[miag@michigan.gov](mailto:miag@michigan.gov)

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(517) 373-1110  
Facsimile (517) 373-3042

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3030 W. Grand Blvd.  
Suite 10-200  
Detroit, MI 48202  
(313) 456-0240  
Facsimile (313) 456-0241





# Michigan Medical Marihuana Program



Michigan Department of Licensing and Regulatory Affairs  
Bureau of Health Professions

Michigan Department of Licensing & Regulatory Affairs - MMMP

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## Initiated Law 1 of 2008

- ◆ Referred to as the Medical Marihuana Act (MMA)
- ◆ Primary purpose of the act is to create a registry of authorized patients and caregivers
- ◆ Ballot proposal became legislation effective December 4, 2008
- ◆ Program began April 4, 2009
- ◆ Registry assigned to LARA / BHP

Michigan Department of Licensing & Regulatory Affairs - MMMP

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## What the Act Does

- ◆ Establishes amounts of usable marihuana and plants
- ◆ Establish the certification process
- ◆ Allows an MD or DO fully licensed in Michigan to certify a patient
- ◆ Establishes confidentiality
  - Restricts from FOIA
- ◆ Allows law enforcement to verify the validity of a registry card

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## Confidentiality

- ◆ The names and other identifying information on the list are confidential and exempt from disclosure under the Freedom of Information Act.
- ◆ Law enforcement can check if a registration number is valid through LEIN. If the number is valid, then the name on the card for that registrant will be confirmed, only if the patient has given approval.
- ◆ Verifications of the validity of a Registry Identification Card can ONLY be given to law enforcement personnel. This is done by the registry number

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& Regulatory Affairs - MMHA

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## Qualifying conditions

- ◆ Cancer
  - ◆ Glaucoma
  - ◆ HIV
  - ◆ AIDS
  - ◆ Hepatitis C
  - ◆ Amyotrophic lateral sclerosis
  - ◆ Crohn's disease
  - ◆ Agitation of Alzheimer's disease
  - ◆ Nail patella
  - ◆ Or the treatment of these conditions
- Treatment of chronic or debilitating disease or medical condition or its treatment that produces 1 or more of the following:
- ◆ Cachexia or wasting syndrome
  - ◆ Severe and chronic pain
  - ◆ Severe nausea
  - ◆ Seizures such as epilepsy
  - ◆ Severe or persistent muscle spasms such as multiple sclerosis

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## Registration Process - Patients

- ◆ An applicant submits a LARA approved application, fee, and physician certification
  - Fee is \$100 or \$25
- ◆ May designate a primary caregiver
- ◆ LARA approves or denies the application within 15 days of receipt
- ◆ LARA issues registration card within 5 days of approval.
- ◆ New application required annually

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## Registry Statistics - Patients

- ◆ 198,610 original and renewal applications have been received as of 10/31/2011
- ◆ 120,597 active Patients
- ◆ 45,531 Active Caregiver Registry cards
- ◆ 14,288 applications have been denied
  - Reason for denial typically is that application is incomplete - missing photo; missing physician certification; application form incomplete; insufficient fee
  - Some denied because medical condition is not covered such as depression

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## Primary Caregivers

- ◆ Patient designates an individual as the primary caregiver on the registration application form
- ◆ Caregiver is NOT required
- ◆ The primary caregiver must:
  - be 21 years old
  - have no felony convictions involving illegal drugs
  - agree to assist patient with medical use of marihuana

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## How does the qualified patient get the marihuana?

- ◆ Act is silent on this issue
- ◆ It is NOT a prescribable drug. Marihuana remains a Schedule I Controlled Substance.
- ◆ The Act does not authorize dispensaries
- ◆ State is not authorized to regulate growing sites or quality of product under this Act
- ◆ Recent decision from the Michigan Court of Appeals found that dispensaries are illegal, as are patient-to-patient sales

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## What the Act Does NOT Do

- ◆ Legalize Marihuana in Michigan
- ◆ Override Federal statutes
- ◆ Allow marihuana to be prescribed
- ◆ Authorize compassion clubs, dispensaries, cooperatives
- ◆ Allow a person to smoke marihuana in a public place
- ◆ Allow a person to operate a car, boat, airplane while under the influence
  - No guidelines established

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## What the Act Does NOT Do

- ◆ Require a government medical assistance program or commercial or non-profit health insurer to reimburse a person for costs associated with the medical use of marihuana.
- ◆ Require an employer to accommodate the ingestion of marihuana in any workplace or any employee working while under the influence of marihuana

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## Additional Information

- ◆ [www.michigan.gov/mmp](http://www.michigan.gov/mmp)
  - Updates on program
  - Act and Administrative Rules
  - Applications and other forms
  - Frequently Asked Questions

Michigan Department of Licensing  
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### Contact MMP

◆ **Mailing Address:**

- P.O. Box 30083  
Lansing, Michigan 48909

◆ **Street Address:**

- 611 W. Ottawa Street  
Lansing, Michigan 48933

◆ **Telephone Number:**

- 517-373-0395

◆ **Email Address:**

[BHP-MMMPINFO@michigan.gov](mailto:BHP-MMMPINFO@michigan.gov)

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# An Update on Michigan's Medical Marihuana Act

*Presented by:*  
Kenneth Stecker on behalf of Michigan Attorney General Bill  
Schuette and on behalf of the  
Prosecuting Attorneys Association of Michigan  
November 2011



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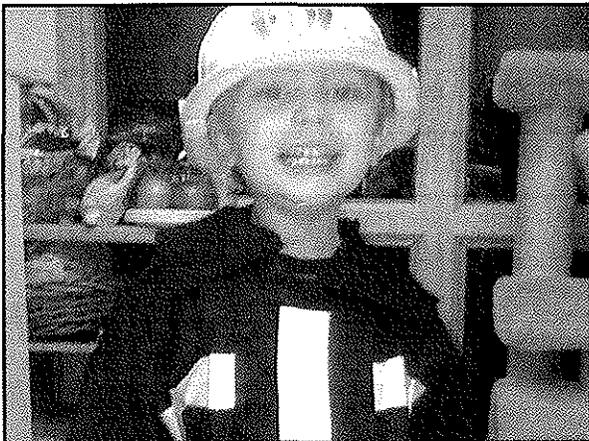
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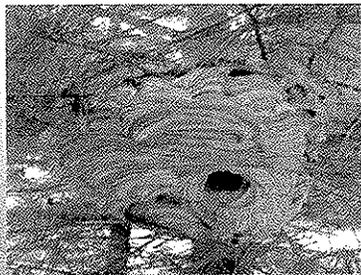
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## Hornet's Nest



Michigan Medical Marihuana Act

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## National Survey-Marihuana Use Increases

- In 2010, 17.4 million Americans were current users of marihuana, compared to 14.4 million in 2007.
- An increase rate of current marihuana use in the population 12 and older from 5.8% in 2007 to 6.9% in 2010.
- "Emerging research reveals potential links between state laws permitting access to smoked marihuana and higher rates of marihuana use." Gil Kerlikowske, director of National Drug Control Policy.
- Source: Substance Abuse and Mental Health Service Administration (SAMHSA), September 8, 2011



Michigan Medical Marihuana Act

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## Street Price

- \$6 a gram in 1981;
- \$18 a gram in 1991;
- \$10 a gram present;
- An ounce ranges from \$100-\$400 in the U.S.;
- \$700-\$2,000 in the Midwest;
- "Cocoa puff"-cocaine and marihuana; "Frios"-marihuana laced with PCP; "Fuel"-marihuana laced with insecticides; "Geek"-crack and marihuana.



Michigan Medical Marihuana Act

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## Federal Law

- The Federal Controlled Substance Act (CSA) classifies marihuana as a Schedule 1 drug, meaning that Congress recognizes no acceptable medical use for it, and its possession is generally prohibited.
- As a federal court in Michigan recently recognized, "It is indisputable that state medical marihuana laws do not, and cannot supersede federal laws that criminalize the possession of marihuana." United States v. Hicks, United States District Court, E.D. of Michigan, 2010.

Michigan Medical Marihuana Act

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## Drug Enforcement Administration's Position-June 21, 2011

- Marijuana has a high potential for abuse.
- Marijuana has no currently accepted medical use in treatment in the United States.
- Marijuana lacks accepted safety for use under medical supervision.
- [http://www.deadiversion.usdoj.gov/fed\\_regs/rules/2011/fr0708.htm](http://www.deadiversion.usdoj.gov/fed_regs/rules/2011/fr0708.htm)



Michigan Medical Marijuana Act

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## Michigan Public Health Code Law-Schedule 1 Drug

- Marijuana is classified as a Schedule 1 drug under the Michigan Public Health Code, MCL 333.7212.
- It is a Schedule 1 drug if the Michigan Board of Pharmacy:

*"finds that the substance has high potential for abuse and has no accepted medical use in treatment in the United States or lacks accepted safety for use in treatment under medical supervision."*

Michigan Medical Marijuana Act

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## Ballot Proposal #1 of 2008

- Permit physician approved use of marijuana by registered patients with debilitating medical conditions cancer, glaucoma, HIV, AIDS, hepatitis C, MS and other conditions as may be approved by the Department of Community Health (MDCH).
- Permit registered individuals to **grow limited amounts** of marijuana for qualifying patients in an enclosed, locked facility.
- Require the Michigan Department of Community Health ("MDCH") to establish an identification card system for patients qualified to use marijuana and individuals qualified to grow marijuana.
- Permit **registered and unregistered** patients and primary caregivers to assert medical reasons for using marijuana as a defense to any prosecution involving marijuana.

Michigan Medical Marijuana Act

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## Benefit of Participation in the Registry Identification Program

- A registered "Qualifying Patient" is allowed to possess an amount of marihuana that does not exceed 2.5 ounces of usable marihuana and allowed to cultivate 12 marihuana plants kept in an enclosed, locked facility.
- Either the Qualifying Patient or the Primary Caregiver can be allowed to possess the marihuana plants.
- A qualifying registered patient is protected from "arrest, prosecution, or penalty in any manner, or denied any right or privilege, including, but not limited to civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau" for medicinal use or possession of marihuana.

Michigan Medical Marihuana Act

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## What Does This Mean?

- The Michigan Medical Marihuana Act does not create any sort of affirmative *right* under state law to use or possess marihuana.
- The Act does not repeal any drug law contained in the public health code, and all persons in this state remain subject to them.
- The Act merely provides a procedure through which seriously ill people using marihuana can be identified and protected from prosecution under state law.

Michigan Medical Marihuana Act

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## Medical Use

- The acquisition, possession, cultivation, manufacture, use, internal possession, delivery, transfer, or transportation or paraphernalia relating to the administration of Marihuana to treat or alleviate a registered qualifying patient's debilitating condition or symptoms. MCL 333.26423(e).

Michigan Medical Marihuana Act



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## Marihuana-MCL 333.7106

- "Marihuana" means all parts of the plant *Cannabis sativa* L., growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin.



*Michigan Medical Marihuana Act*

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## Usable Marihuana-MCL 333.26423(j)

- The dried leaves and flowers of the Marihuana plant, and any mixture or preparation thereof, but does not include the seeds, stalk, and roots of the plant. MCL 333.26423(j).



*Michigan Medical Marihuana Act*

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## People v. Chason-Pointer, Genesee County Circuit Court, 1/13/11

- Judge directed a verdict because the seeds and stems of 38 ounces of "marihuana" were not separated in order to show an amount that exceeded 2.5 ounces of "usable marihuana."



*Michigan Medical Marihuana Act*

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## People v. Carruthers, Macomb County District Court, 10/5/11

- The Court ruled that the term "usable mixture" as defined in MMMA includes the aggregate weight of the marihuana and any filler wherein the only exception is when the filler is a seed, stalk, root or water."



*Michigan Medical Marihuana Act*

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## Qualifications for Registered Primary Caregiver

- The patient designates an individual as the primary caregiver on the patient's registration application form.

The primary caregiver shall:

- be 21 years old;
- have no felony convictions involving illegal drugs;
- agree to assist patient with medical use of marihuana.

*Michigan Medical Marihuana Act*

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## Designation

- The patient designates a caregiver, and has to indicate whether the patient or the caregiver is allowed to cultivate the marihuana plants for the patient's medical use.
- Each patient can only have one caregiver, however, each caregiver can assist no more than five patients.

*Michigan Medical Marihuana Act*

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Possession, Cultivation, and Plant Limits  
for a Registered Primary Caregiver

- Not to exceed 2.5 ounces of usable marihuana for each qualifying patient to whom he or she is **connected through the department's registration process.** MCL 333.26424(b)(1).
- For each registered qualifying patient who has specified that the primary caregiver will be allowed under state law to cultivate marihuana for the qualifying patient, 12 marihuana plants kept in an enclosed, locked facility. MCL 333.26424(b)(2).

Michigan Medical Marihuana Act

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*People v Bylsma*, No. 302762 (Mich. App., September 27, 2011)

- "Under the MMMA, a registered primary caregiver is allowed to possess 12 marihuana plants for each registered qualifying patient the primary caregiver is connected to through the Michigan Department of Community Health's (MDCH) registration process."

Michigan Medical Marihuana Act

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*People v Bylsma*, No. 302762 (Mich. App., September 27, 2011)

- "Because defendant possessed marihuana plants that were being grown and cultivated for registered qualifying patients that were not connected to him through the MDCH's registration process, defendant was not entitled to immunity under § 4(b) of the MMMA."
- "In addition, because defendant did not comply with the requirements of § 4(b), defendant is not entitled to assert the § 8 affirmative defense of medical purpose."

Michigan Medical Marihuana Act

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## Not Subject to Arrest

These primary caregivers shall not be subject to arrest, prosecution, or civil penalty or disciplinary action by a business or professional licensing board or bureau, for the medical use of Marihuana. MCL 333.26424(b).

*Michigan Medical Marihuana Act*

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## What About the Plants?

- Michigan does not limit the size or distinguish between seedlings and mature, producing plants.
- 12 plants can produce quite a bit of marihuana. The annual yield of a 12 plant indoor marihuana grow site would generate between 44 and 72 ounces.
- Is a dead plant a plant? Is a cutting a plant? Is a clone a plant? Is a seedling considered a plant if it has a root system?
- It can be assumed that the primary caregiver is not legally allowed to keep part of the "harvest" as payment.

*Michigan Medical Marihuana Act*

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## MCL 333.7401(5)

- "Plant" means a marihuana plant that has produced cotyledons or a cutting of a marihuana plant that has produced cotyledons.
- Webster's definition of cotyledon: A leaf of the embryo of a seed plant, which upon germination either remains in the seed or emerges, enlarges, and becomes green. Also known as a seed leaf.

*Michigan Medical Marihuana Act*

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## Obtaining Medical Marihuana

- The Act is silent on this issue.
- The State of Michigan is not authorized to regulate growing sites or quality of product under this Act.

*Michigan Medical Marihuana Act*

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## Enclosed, Locked Facility

A closet, room, or other enclosed area equipped with locks or other security devices that permit access only by a registered primary caregiver or registered qualifying patient. MCL 333.26423(c).



*Michigan Medical Marihuana Act*

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## Michigan Attorney General's Position-June 28, 2011

- The Attorney General opined that "The Michigan Medical Marihuana Act, prohibits the joint cooperative cultivation or sharing of marihuana plants because each patient's plants must be grown and maintained in a separate enclosed, locked facility that is only accessible to the registered patient or the patient's registered primary caregiver."



*Michigan Medical Marihuana Act*

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*People v. King*, Shiawassee Circuit Court, September 30, 2009

- Chain-link dog kennel behind the house, 6 feet tall, but had an open top and was not anchored to the ground.
- Marihuana plants growing inside defendant's unlocked living room closet.
- Defendant charged with two counts of manufacturing marihuana.
- Defendant asserted affirmative defense under Section 8 of the Act.
- Prosecutor argued that the Defendant failed to comply with the Act because marihuana plants not in an enclosed, locked facility.
- The Circuit Court agreed with the Defendant and dismissed the case.

*Michigan Medical Marihuana Act*

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*People v. King*, 9/30/09

- The Shiawassee County Circuit Court ruled that "The Defendant was present at the time of the arrival of the police and he was there at the time the police searched the property. Therefore, the Defendant was acting as the security device by limiting access to the marihuana."

*Michigan Medical Marihuana Act*

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*People v King*, No. 294682 (Mich. App., February 3, 2011)

- "The kennel had a lock on the chain-link door, but had no fencing or other material over the top and it could be lifted off the ground."
- "Enclosed area" follows the word "closet" and "room," both of which have specific limited meanings and which have the common characteristic of being stationery and closed on all sides.

*Michigan Medical Marihuana Act*

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*People v King*, No. 294682 (Mich. App.,  
February 3, 2011)

- Trial court's conclusion that defendant acted as a "security device" for the marijuana growing inside his home is pure sophistry and belied by defense counsel's unsurprising admission at oral argument that, at times, defendant left the property, thus leaving the marijuana without a "security device" and accessible to someone other than defendant as the registered patient."

Michigan Medical Marijuana Act

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*People v King*, No. 142850 (Mich. Sup.  
Ct., June 22, 2011)

- The Michigan Supreme Court granted the Defendant's application for leave to appeal.
- The Attorney General, the Criminal Defense Attorneys of Michigan, and the Prosecuting Attorneys Association of Michigan are invited to file brief *amicus curiae*.



Michigan Medical Marijuana Act

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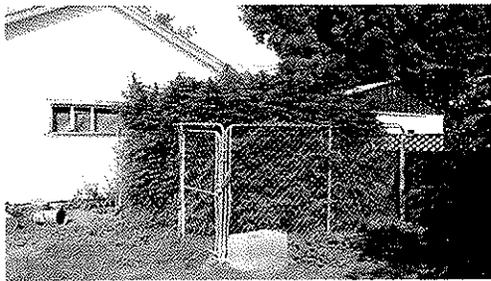
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Enclosed, Locked Facility?



Michigan Medical Marijuana Act

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## Primary Caregiver Compensation

- A primary caregiver may receive compensation for costs associated with assisting a registered qualifying patient in the medical use of marihuana.
- Any such compensation shall not constitute the sale of a controlled substance. MCL 333.26424(e).

*Michigan Medical Marihuana Act*

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## *People v. Redden, Concurrence*

- "Because a primary caregiver may assist only the five or fewer qualifying patients to whom the caregiver is connected through the registration process, there is no circumstances under the MMMA in which the primary caregiver can provide assistance to any other qualifying patient, and receive compensation in exchange, without being subject to arrest and prosecution under the Public Health Code." Pages 13-14.

*Michigan Medical Marihuana Act*

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## *People v. Redden, Concurrence*

- "The statute does not authorize compensation for the labor in cultivating marihuana or for otherwise assisting the qualifying patient in its use, nor does it indicate that the primary caregiver may profit financially from this role." Page 14.
- "A primary caregiver may receive compensation for only the costs associated with assisting a registered qualifying patient in the medical use of marihuana." Page 14.

*Michigan Medical Marihuana Act*

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## In the Presence or Vicinity

"A person shall not be subject to arrest or prosecution, solely for being in the presence or vicinity of the medical use of marihuana, or for assisting a registered qualifying patient with using or administering marihuana." MCL 333.26424(i).

*Michigan Medical Marihuana Act*

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## *People v. Redden, Concurrence*

- "Such assistance is in the nature of holding or rolling a marihuana cigarette, filling a pipe, or preparing marihuana-laced brownies for the qualifying patient suffering from a terminal illness or debilitating condition." Page 15.
- "Section 4(i) does not protect persons from arrest for acquiring, possessing, cultivating, manufacturing, delivery, transferring, or transporting marihuana on behalf of the qualifying patient." Page 15.

*Michigan Medical Marihuana Act*

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## What is Prohibited Under MCL 333.2647?

- Smoking marihuana "in any public place"
- Smoking marihuana on any form of public transportation
- Any use by a person who has no serious or debilitating medical condition
- Operating, navigating, or being in actual physical control of any motor vehicle, aircraft, or motorboat while under the influence of marihuana
- Any use or possession in a school bus
- Any use or possession on the grounds of any preschool, primary, or secondary school
- Any use or possession in any correctional facility

*Michigan Medical Marihuana Act*

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## Other Michigan Laws

MCL 333.26427(e) reads that:  
"All other acts and parts of acts inconsistent with this act do not apply to the **medical use** of marihuana as provided by this act."

Michigan Medical Marijuana Act

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## Operation of a Motor Vehicle

- Although the Act prohibits the operation of any motor vehicle while under the influence of Marihuana; it does not make reference to Michigan's current OUID Per Se Law.



Michigan Medical Marijuana Act

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## *People v. Koon*, November 16, 2010

- The Circuit Court ruled that:  
"The MMMA, which supersedes MCL 257.625, states that qualified patients are proscribed from operating a motor vehicle while under the influence of marihuana. Therefore, evidence of impairment is a necessary requirement."

Michigan Medical Marijuana Act

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## People v. Chase, September 23, 2010

- The District Court ruled that: "MCL 257.625(8) was not amended after the adoption of the Medical Marihuana Act to carve out an exception for the medical marihuana qualified patients to drive with THC in their system."

Michigan Medical Marihuana Act

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## OUID LAW in Michigan

- If any amount of a schedule one controlled substance (e.g. marihuana) or cocaine in body, the Prosecutor does not need to prove that suspect was under the influence or impaired. MCL 257.625(8). If it is not a schedule one or cocaine, the Prosecutor must prove operating under the influence or impaired. MCL 257.625(1).
- 11-Carboxy THC ("TCOOH") is not a schedule 1 controlled substance -- the prosecution can not charge a defendant for OUID Per Se if the defendant only has 11-Carboxy THC ("TCOOH") in his/her system. *People v. Feezel*, No. 138031 (Mich. Sup. Ct., June 8, 2010).

Michigan Medical Marihuana Act

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## Drugged Driving a Growing Problem

- According to the Fatality Analysis Reporting System (FARS), one in three (33 percent) of all drivers with know drug-test results who were killed in motor vehicle crashes in 2009 tested positive for drugs (illegal substance as well as medications).
- "Drugged driving is a much bigger public health threat than most people realize." Gil Kerilowski, Director of National Control Policy.

Michigan Medical Marihuana Act

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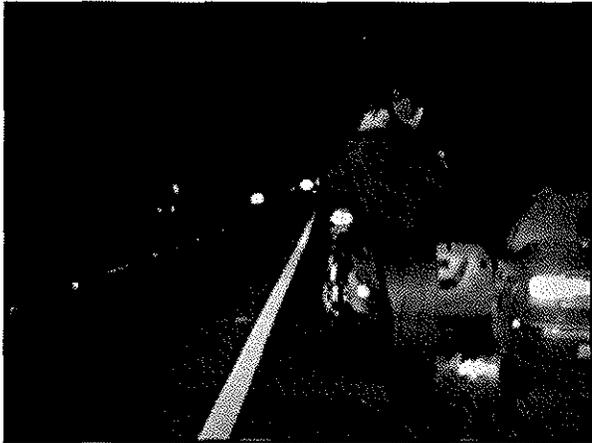
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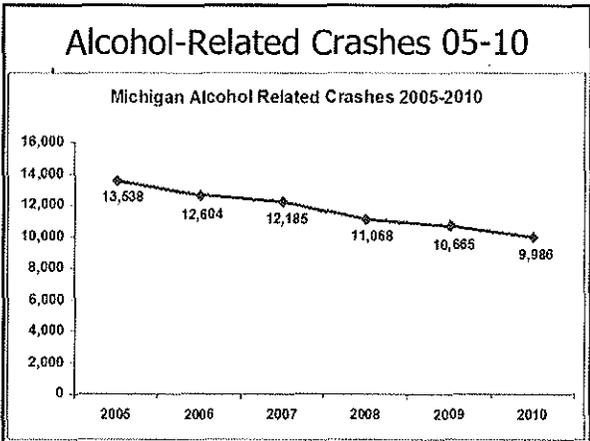
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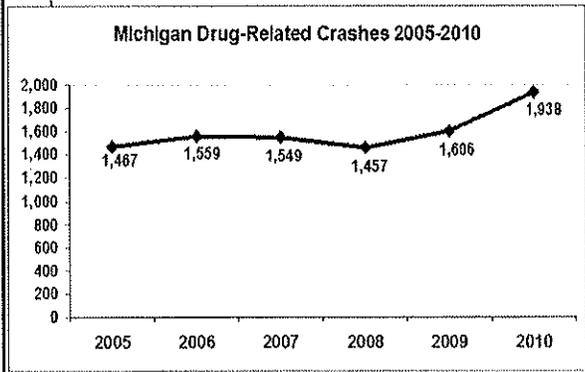
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## Drug-Related Crashes 05-10



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## ARIDE/DRE in Michigan

- First Michigan ARIDE class June 2009
  - 25 participants (prosecutors and officers)
  - 15 more classes averaging 30 per class
- First Michigan DRE class April 2011
  - 20 participants (prosecutors and officers)
  - 16 DRE officers certified throughout the State

*Michigan Medical Marijuana Act*

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## Drugged Driving Campaign



*Michigan Medical Marijuana Act*

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## Statutory Affirmative Defense

MCL 333.26428(a) states that "Except as provided in Section 7, a patient and a patient's primary caregiver, if any, may assert, the medical purpose for using marihuana as a defense to any prosecution involving marihuana."

*Michigan Medical Marihuana Act*

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## Evidentiary Hearing

- Pursuant to MCL 333.26428(a)(3), "A person may assert the medical purpose for using marihuana in a motion to dismiss, and the charges shall be dismissed following an evidentiary hearing where the person shows the elements listed in subsection (a)."

*Michigan Medical Marihuana Act*

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## Element #1 Under Section 8: Physician's Statement

- A physician (Licensed M.D./D.O.) has stated that:
- In the physician's professional opinion
  - After having completed a full assessment of the patient's medical history and patient's medical condition
  - Which assessment was made in the course of a bona-fide physician-patient relationship
  - That the patient is likely to receive therapeutic or palliative benefit
  - From the medical use of marihuana
  - To treat or alleviate the patient's serious or debilitating medical condition or symptoms of the patient's serious or debilitating medical condition.

*Michigan Medical Marihuana Act*

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## Element #2 Under Section 8: Reasonably Necessary Quantity

The patient and the patient's primary caregiver, if any, were collectively:

- In possession of a quantity of marihuana that was:
  - Not more than was reasonably necessary
  - To ensure the uninterrupted availability of marihuana
- For the purpose of treating or alleviating the patient's serious or debilitating medical condition or symptoms of the patient's serious or debilitating medical condition.

*Michigan Medical Marihuana Act*

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## Element #3 Under Section 8: Medical Use

The patient and the patient's primary caregiver

- Were engaged in the:
  - Acquisition, possession, cultivation, manufacture, use, delivery, transfer, or transportation of marihuana or paraphernalia relating to the use of marihuana
  - To treat or alleviate the patient's serious or debilitating medical condition or symptoms of the patient's serious or debilitating medical condition.

*Michigan Medical Marihuana Act*

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## *People v. Redden*, No. 295809 (Mich. App., September 14, 2010)

- "The ballot proposal explicitly informed voters that the law would permit registered and unregistered patients to assert medical reasons for using marihuana as a defense to any prosecution involving marihuana."
- "We hold that the district court did not err by permitting defendants to raise the affirmative defense even though neither satisfied the registry-identification-card requirement of section 4." Page 11.

*Michigan Medical Marihuana Act*

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*People v. Redden*, No. 295809  
(Mich. App., September 14, 2010)

- "The MMMA does not define the phrase bona fide physician-patient relationship."
- "We find that there was evidence in this particular case that the doctor's recommendations did not result from assessments made in the course of bona fide physician-patient relationships."
- "Indeed, the facts at least raise an inference that defendants saw Dr. Eisenbud not for good-faith medical treatment but in order to obtain marijuana under false pretenses."

*Michigan Medical Marijuana Act*

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*People v. Redden*, Concurrence

- Whether the physician signing the written certification form is the patient's primary caregiver;
- Whether the patient has an established history of receiving medical care from that physician;
- Whether the physician has diagnosed the patient with a particular debilitating medical condition;
- Whether the physician has been paid to sign the written certification;
- Whether the physician has a history of signing an unusually large number of such certifications.

*Michigan Medical Marijuana Act*

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*People v. Redden*, Concurrence

- Footnote 20, page 15:
- "It is beyond question that 100, 500, 1,000 terminally ill patients, with a 10 minute examination, has not been acting pursuant to bona fide physician-patient relationship."
- "A revolving-door rubber-stamp, assembly line certification process does not constitute activity in the course of a bona fide physician-patient relationship."

*Michigan Medical Marijuana Act*

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**Federal Agents Jail Michigan Doctor**

- On April 12, 2011, the federal complaint, filed in U.S. District Court in Bay City, alleges that Buck issued 1,870 medical marijuana certificates between the time the state law passed two years ago and March 17, 2011, for which Buck charged \$200 per certification and \$150 per renewal.

*Michigan Medical Marijuana Act*

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***People v. Kolanek*, No. 295125  
(Mich. App., January 11, 2011)**

- The case required the Michigan Court of Appeals to consider an issue of first impression as to when a physician must provide the statement under MCL 333.26428(a)(1).
- "We conclude that has stated requires that the physician's opinion occur prior to arrest. First, because the term is past tense, the initiative must have intended that the physician's opinion be stated prior in time to some event."

*Michigan Medical Marijuana Act*

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***People v. Walburg*, No. 295497  
(Mich. App., February 10, 2011)**

- In an unpublished opinion, the defendant claimed that he used the marijuana to treat severe anxiety disorder and insomnia and obtained an affidavit from a physician after his arrest.
- Following the holding in *Kolanek*, the Court reversed the dismissal of the charges and remanded the case to the trial court.

*Michigan Medical Marijuana Act*

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*People v. Rigo*, 69 Cal. App. 4th 409 (1999)

- The Court ruled that compassionate use statute did not extend to physician's post-arrest ratification of defendant's self-medication.
- "Defendant's medical condition did not bring him to consult a doctor; rather the Twin Cities police officers did. There are no excuses, or 'exigent circumstances' to validate the approval or recommendation over three months after the defendant's arrest."

Michigan Medical Marijuana Act

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*People v. Kolanek*, No. 142712 (Mich. Sup. Ct., June 22, 2011)

- The Michigan Supreme Court granted the Defendant's application for leave to appeal.
- The Attorney General, the Criminal Defense Attorneys of Michigan, and the Prosecuting Attorneys Association of Michigan are invited to file brief *amicus curiae*.



Michigan Medical Marijuana Act

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*People v. Anderson*, No. 300641  
(Mich. App., June 7, 2011)

- The Court ruled that "A trial court may bar a defendant from presenting evidence and arguing a sec 8 defense at trial where, given the undisputed evidence no reasonable jury could find that the elements of the sec 8 defense had been met."
- As there was no dispute about the amount of plants Defendant possessed, or that the plants were not kept in a closed locked facility, "no reasonable jury could, therefore, find that he had 12 or fewer plants or that the plants were in an enclosed locked facility."

*Michigan Medical Marihuana Act*

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*People v. Brian Bebout Reed*,  
No. 296686 (Mich. App., August 30, 2011)

- The Defendant's marihuana plants were discovered before any physician authorization, but defendant was not arrested until after he had obtained physician authorization, as well as a registry identification card from the Michigan Department of Community Health (MDCH).
- The Court held that "That, for a Section 8 affirmative defense to apply, the physician's statement must occur before the purportedly illegal conduct."

*Michigan Medical Marihuana Act*

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*Isabella County Case*

- Facts: Two individuals in their business enterprise receive marihuana from caregivers with the authority of their designated patients to sell that marihuana to other medical marihuana patients. There is approximately 200 patients and caregivers.
- The argument is that that this business does not comply because the law indicates that the drug only can be obtained by a registered patient who is authorized to cultivate plants or the patient's register caregiver authorized to cultivate the plants.

*Michigan Medical Marihuana Act*

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*State of Michigan v. McQueen,*  
December 16, 2010-Trial Court

- "This court finds that the patient-to-patient transfers and deliveries of marihuana between registered qualifying patients falls soundly within the medical use of marihuana as defined by the MMMA."
- "This court also finds that because the Legislature provided the presumption of medical use of marihuana in MCL 333.26424(d), it intended to permit such patient-to-patient transfers and deliveries of marihuana between registered qualifying patients..."

*Michigan Medical Marihuana Act*

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*State of Michigan v. McQueen,* August 23,  
2011-Michigan Court of Appeals

- "The 'medical use' of marihuana, as defined by the MMMA, does not include patient-to-patient 'sales' of marihuana, and no other provision of the MMMA can be read to permit such sales."
- "Therefore, defendants have no authority to actively engage in and carry out the selling of marihuana between CA members."

*Michigan Medical Marihuana Act*

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**Other States**

- Six other medical marihuana states allow medical marihuana to be transferred from caregiver to patient by means of a third party collective, cooperative, or non-profit dispensaries.
- A California or Colorado patient can obtain their medicine from a central collective or cooperative instead of receiving it directly from their caregiver.
- A cooperative must file articles of incorporation with the state and conduct its business for the mutual benefit of its members.

*Michigan Medical Marihuana Act*

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*State of Michigan v. McQueen*, August 23, 2011-Michigan Court of Appeals

- "The MMMA does not expressly authorize marihuana dispensaries."
- "Defendant's violation of the Michigan Public Health Code is not excused by the MMMA because defendants do not operate Compassionate Apothecary in accordance with the provisions of the MMMA."

*Michigan Medical Marihuana Act*

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MCL 333.26427(c)2 of the Act

- "Nothing in this act shall be construed to require:
  - (2) An employer to accommodate the ingestion of marihuana in any workplace or any employee working while under the influence of marihuana."
- It is suggested that employers should adopt employment policies addressing how the medical use of marihuana will be treated by the employer. See also, Maricopa County Attorney Opinion, May 26, 2011.

*Michigan Medical Marihuana Act*

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*Casias vs. Wal-Mart*, U.S. District Court, decided February 11, 2011

- Civil case in Calhoun County which Wal-Mart fired an employee who tested positive for marihuana which he used while off-duty.
- The Court ruled that the "state's medical marihuana law protects users from arrest, but not employers' policies that ban the use of the drug."



*Michigan Medical Marihuana Act*

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## Drug Free Work Place Policy

- The presence of any detectable amount of a prohibited substance in the employee's system while at work, while on the premises of the department, or property, or while conducting or performing department business is prohibited.

*Michigan Medical Marihuana Act*

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## Specific Drugs Prohibited at the Workplace in the Policy

- "Prohibited substances include illegal drugs, anabolic steroids, alcohol, marihuana, medical marihuana or prescription drugs not taken in accordance with the prescription given to the employee, or those that contain controlled substances as outlined in other sections of this policy."

*Michigan Medical Marihuana Act*

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## Parole and Probation

MCL 771.3 reads:

- "During the term of his or her probation, the probationer shall not violate any criminal law of this state, the United States, or another state or any ordinance of any municipality in this state or another state."
- Midland and Macomb County Circuit Courts recently ruled that probationers/defendants are not allowed the use of medical marihuana while on probation.
- For those individuals who are on supervised release, parole, or probation, a sentencing court can order that this individual not be allowed to use or possess medical marihuana.

*Michigan Medical Marihuana Act*

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## Future Concerns are now Concerns

- Profiteering
- Regulating/prohibiting medical Marihuana dispensaries through ordinances
- Exposure to federal prosecution
- Medical marihuana in jails
- Defendant on probation/parole
- Children's day care centers
- Adult foster care homes and nursing homes
- Federal subsidized housing
- Colleges and universities
- School zones
- Work-place
- Concealed Pistol License (CPL)

*Michigan Medical Marihuana Act*

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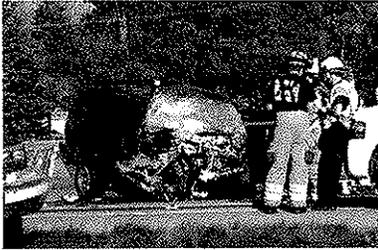
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## Marihuana Involved in Fatal Crash



*Michigan Medical Marihuana Act*

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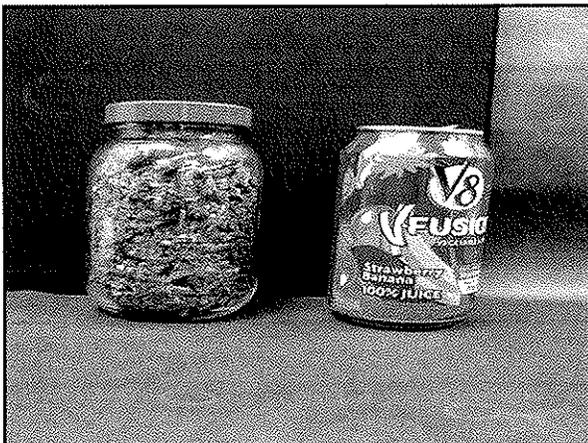
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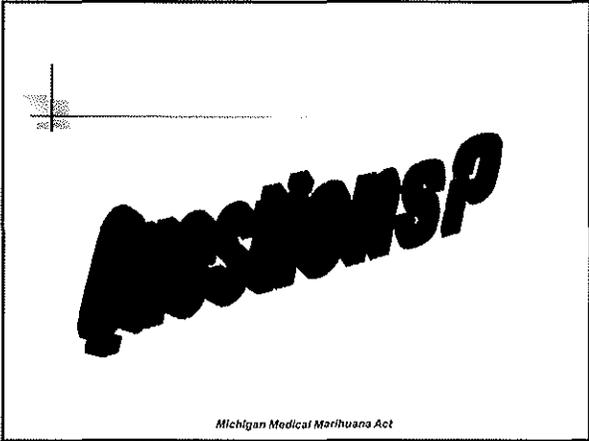
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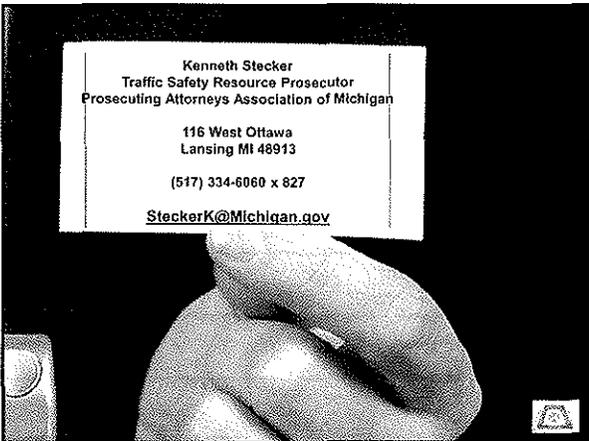
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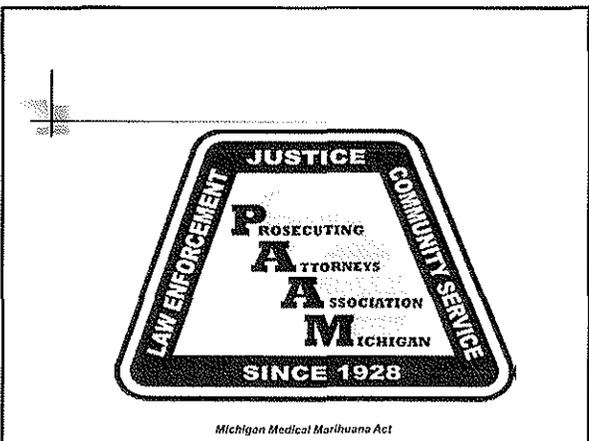
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Clearing the Air – Understanding,  
Implementing, and Enforcing Michigan’s  
Medical Marihuana Law

AG Opinions, Amicus Curiae filings,  
and Nuisance Actions

Heather S. Meingast  
Assistant Attorney General  
Opinions Division

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Attorney General Opinions

The Attorney General is authorized "to give his opinion upon all questions of law submitted to him by the legislature or either branch thereof, or by the governor . . . or any other state officer." MCL 14.32.

- Local units of government may ask for opinions through a legislator.
- By tradition, prosecutors may directly ask for an opinion if the request is supported by a legal memorandum.
- Attorney General opinions are not "law," and bind only state agencies, but courts often find them persuasive.

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OAG No 7262  
(November 10, 2011)

Section 4(h) of the Michigan Medical Marihuana Act, Initiated Law 1 of 2008, MCL 333.26424(h), which prohibits the forfeiture of marihuana possessed for medical use, directly conflicts with and is thus preempted by, the federal Controlled Substances Act, 21 USC 801 *et seq.*, to the extent section 4(h) requires a law enforcement officer to return marihuana to a registered patient or primary caregiver upon release from custody.

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OAG No 7261  
(September 15, 2011)

2009 PA 188, which prohibits smoking in public places and food service establishments, applies exclusively to the smoking of tobacco products. Because marihuana is not a tobacco product, the smoking ban does not apply to the smoking of medical marihuana.

The Michigan Medical Marihuana Act, Initiated Law 1 of 2008, MCL 333.26421 *et seq.*, prohibits qualifying registered patients from smoking marihuana in the public areas of food service establishments, hotels, motels, apartment buildings, and any other place open to the public.

An owner of a hotel, motel, apartment building, or other similar facility can prohibit the smoking of marihuana and the growing of marihuana plants anywhere within the facility, and imposing such a prohibition does not violate the Michigan Medical Marihuana Act, Initiated Law 1 of 2008, MCL 333.26421 *et seq.*

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OAG No 7259  
(June 28, 2011)

The Michigan Medical Marihuana Act, Initiated Law 1 of 2008, MCL 333.26421 *et seq.*, prohibits the joint cooperative cultivation or sharing of marihuana plants because each patient's plants must be grown and maintained in a separate enclosed, locked facility that is only accessible to the registered patient or the patient's registered primary caregiver.

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Amicus Curiae & Other Filings

*People v King*, Michigan Supreme Court No. 142850, the Attorney General will file merits brief arguing that to qualify for the presumption and protection from prosecution created in section 4, MCL 333.26424, and section 8, MCL 333.26428, of the MMMA, a defendant must comply with all provisions of the Act, including the requirement that all marihuana be stored in an enclosed, locked facility that is accessible only to the caregiver or patient.

*People v Kolanek*, Michigan Supreme Court No. 142695, the Attorney General filed an amicus brief arguing (1) that a defendant asserting a section 8 defense must comply with the provisions and possession limits created by section 4, MCL 333.26424; (2) that to assert a section 8, MCL 333.26428, defense, the physician's statement must occur not only before arrest, but also before the illegal conduct; and (3) that the section 8 affirmative defense must be raised, if at all, before the trial court in a motion to dismiss, and cannot later be raised before a jury.

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*People v McQueen*, Michigan Supreme Court No. 143824, Attorney General participated as amicus in the Court of Appeals, and will file in the Supreme Court if the application is granted, arguing that the MMMA does not authorize the sale or transfer of marijuana outside of a registered patient/registered primary caregiver relationship.

*People v Koon*, Michigan Court of Appeals No. 301443, Attorney General filed amicus brief in support of local prosecutor, arguing that section 7 of the MMMA, which provides that it remains illegal to drive "under the influence" of marijuana, does not repeal or otherwise modify MCL 257.625(8) of the Motor Vehicle Code, which makes it illegal to drive with any amount of THC in the system.

*Lott v City of Livonia*, Michigan Court of Appeals No. 305723, Attorney General intervened below in support of the City of Livonia, and will argue on appeal that all or portions of the MMMA are preempted by the federal Controlled Substances Act.

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## Nuisance Actions

*Chesterfield Twp v Big Daddy's Management Group, PLLC*, Macomb Circuit Court Case No. 11-3118-CZ, Attorney General intervened in support of township, and is assisting township in its efforts to enjoin operation of a local dispensary.

*People v Twinn Bridges Compassion Club*, Midland Circuit Court No. 11-7837-PZ, Attorney General intervened in support of local prosecutor, and assisted in obtaining a preliminary injunction enjoining operation of the compassion club. An order for entry of a permanent injunction is pending.

The Attorney General's Criminal Division has drafted a sample nuisance complaint for use by local prosecutor's, which may be modified for use by local units of government as well.

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## More information . . .

Let the Attorney General's office know of significant or developing issues or cases. We may be interested in assisting in some way.

If you have additional questions regarding Attorney General opinions or the amicus curiae filings, or wish to obtain copies of briefs, you may contact me at the Opinions Division, 517-373-6889, or [meingasth@michigan.gov](mailto:meingasth@michigan.gov).

Formal Attorney General opinions are available online at <http://www.ag.state.mi.us/opinion/opinions.aspx>, by number or text search.

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STATE OF MICHIGAN  
CIRCUIT COURT FOR THE [COURT#] JUDICIAL CIRCUIT  
[COUNTY] COUNTY

STATE OF MICHIGAN  
EX REL., [COUNTY NAME] COUNTY  
PROSECUTING ATTORNEY

No. [#]

Plaintiff,

HON. [JUDGE'S NAME]

v

[DEFENDANTS],

Defendants.

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[Attorney's Name] (P#)  
Prosecuting Attorney for County of [County Name]  
Attorney for Plaintiff  
[Address]  
[Phone Number]

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**PUBLIC & COMMON LAW NUISANCE COMPLAINT  
FOR INJUNCTIVE AND OTHER RELIEF**

There is no other pending or resolved civil action arising  
out of the transaction or occurrence alleged in this  
Complaint.

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County Prosecutor

**Introduction**

[County] County Prosecuting Attorney, [Name], brings this action pursuant  
to MCL 600.3801 and 600.3805 in [his or her] official capacity in the name of the  
State of Michigan for the purpose of enjoining, abating, and preventing an ongoing  
public and common law nuisance occurring at Defendants' business premises.

Defendants' business is engaged in the unlawful sale, keeping for sale, bartering, or furnishing of marihuana in violation of the Michigan Medical Marihuana Act, MCL 333.26424(k), and controlled substance laws of this state. Relief is sought to, among other things, require that: the occupants vacate the property; the business be padlocked for a period of one year; the illegal contraband be destroyed pursuant to law; and all contents of the premises be removed and sold pursuant to MCL 600.3801 and MCL 600.3825(1).

### **Parties**

1. Plaintiff, the Prosecuting Attorney for the County of [County], brings this suit in the name of the State of Michigan pursuant to MCL 600.3801 and 600.3805.

2. Defendants [names] are the lessees, operators, workers, or employees of the business commonly known as [name of business] and are operating, maintaining, or conducting what purports to be a medical marihuana [dispensary, cooperative, etc.].

3. Defendants [names] are the owners of the property on which Defendants [names] are operating, maintaining, or conducting what purports to be a medical marihuana [dispensary, cooperative, etc.].

4. Defendant [name of business] is the business entity incorporated as [type of business entity (corporation, non-profit)] and owns the contents of the building.

### Jurisdiction

5. Plaintiff is authorized under MCL 600.3805 and by common law to initiate this lawsuit. MCL 600.3805 provides:

The attorney general of the state of Michigan, the prosecuting attorney or any citizen of the county, may maintain an action for equitable relief in the name of the state of Michigan, upon the relation of such attorney general, prosecuting attorney or citizen to abate said nuisance and to perpetually enjoin any person, his servant, agent, or employee, who shall own, lease, conduct or maintain such building, vehicle, boat, aircraft or place, from permitting or suffering such building, vehicle, boat, or aircraft or place owned, leased, conducted or maintained by him, or any other building, vehicle, boat, aircraft or place conducted or maintained by him to be used for any of the purposes or by any of the persons set forth in section 3801, or for any of the acts enumerated in said section. When the injunction has been granted, it shall be binding on the defendant throughout the judicial circuit in which it was issued.

6. Pursuant to MCL 600.2940(1), all claims based on or to abate nuisance may be brought in the circuit court.

### Venue

7. Each Defendant does business in [City, Township, or County]. Venue is accordingly proper under MCL 600.1621.

8. [Insert business name] is located at [insert business address] in [City, Township, or County] of [Name].

### General Allegations

9. Plaintiff incorporates by reference the allegations set forth in Paragraphs 1 through [insert paragraph #], as if set forth verbatim herein.

10. On November 4, 2008, Michigan voters passed a measure, effective December 4, 2008, allowing certain registered patients with debilitating medical

conditions to use, grow, consume, and possess medical marihuana. Under the Michigan Medical Marihuana Act (MMMA) “[t]he medical use of marihuana is allowed under state law to the extent that it is carried out in accordance with the provisions of this act.” MCL 333.26427(a).

11. In enacting the MMMA, the people did not repeal any statutory prohibitions regarding marihuana. The use, possession, sale, delivery, manufacture, and cultivation of marihuana remains a crime in Michigan. MCL 333.7401(2)(d)(iii); MCL 333.7403 (2)(d); MCL 333.7404 (2)(d). Instead, the MMMA protects specific categories of persons from arrest, prosecution, or other penalty under those laws only if they comply with the requirements of the MMMA. Anyone who is not in one of the protected categories who uses, possesses, sells, delivers, manufactures, or cultivates marihuana remains subject to state criminal prosecution. Indeed, even a properly registered qualifying patient or registered primary caregiver who sells marihuana to someone who is not allowed to use marihuana for medical purposes under the MMMA shall, *inter alia*, be “guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than \$2,000.00, or both, in addition to any other penalties for the distribution of marihuana.” MCL 333.26424(k).

12. The MMMA does not expressly authorize or provide any protection from prosecution, regarding the operation of dispensaries, clubs, consignment shops, or any other type of business or storefront at which marihuana is transferred, delivered, or sold to registered patients or primary caregivers. *State of*

*Michigan v McQueen*, \_\_\_\_ Mich App \_\_\_\_; \_\_\_\_ NW2d \_\_\_\_; 2011 WL 3685642 (2011).

13. Furthermore, the MMMA does not authorize transfers or deliveries of marihuana between qualifying patients; between primary caregivers and unconnected qualifying patients; or between primary caregivers. Absent an express authorization, these activities are prohibited by the existing controlled substance laws.

14. With respect to the cultivation or manufacture of marihuana, the MMMA does not authorize any individual, including qualifying patients or primary caregivers, to form cooperatives or collectives to jointly cultivate, store, and share marihuana with other registered patients or caregivers. See OAG, 2010-2011, No 7259, p \_\_\_\_ (June 28, 2011). This is because the MMMA requires that each patient's plants must be grown and maintained in a separate enclosed, locked facility that is only accessible to the registered patient or the patient's registered primary caregiver. *Id.* Any activities conducted contrary to these requirements are prohibited.

15. Notwithstanding the MMMA, under federal law, the possession, use, and transfer of marihuana—whether possessed for medical purposes or not—remains illegal. The Department of Justice (DOJ), in a letter dated June 29, 2011, expressed concern about an increase in the scope of jurisdictions that have implemented legislation sanctioning and regulating the commercial cultivation and distribution of marihuana, purportedly for medical use. While recognizing United

States Attorneys' broad prosecutorial authority, the DOJ reminded their attorneys that "[p]ersons who are in the business of cultivating, selling or distributing marihuana, and those who knowingly facilitate such activities, are in violation of the Controlled Substances Act, regardless of state law." Exhibit 1.

### **Factual Allegations**

16. Plaintiff incorporates by reference the allegations set forth in Paragraphs 1 through [insert paragraph #], as if set forth verbatim herein.

17. Notwithstanding the narrow protections afforded by the MMMA, Defendants [names] are involved in a business or enterprise known as [insert business name] which, upon information and belief, [insert type of business and how it is operating].

18. Upon information and belief, Defendants [owners' names] own the property located at [insert address] on which Defendants [operators' names] are [insert type of business and how it is operating].

19. Plaintiff asserts [his or her] authority under MCL 600.3805 to remedy these injuries to the public interest by seeking to enjoin Defendants' violations of law and to assess equitable and monetary penalties against Defendants for violations of law.

20. Upon information and belief, the [dispensary, cooperative, etc.] is a business or enterprise operated for profit that unlawfully sells marihuana to members of the public.

21. Upon information and belief, Defendants [operators' names] were and are either the agents or principals of [insert name of business] and [insert name of business entity] participated in the acts and conduct alleged herein.

22. Defendants' business premises and its contents are used for the unlawful sale, keeping for sale, bartering, or furnishing marihuana.

23. Defendants' conduct (1) significantly interferes with the public's health, safety, peace, comfort, or convenience; (2) is proscribed by law; or (3) is known or should have been known by the actor to be of a continuing nature that produces a permanent or long-lasting, significant effect on these rights. *Capitol Properties Group, LLC v 1247 Ctr. Street, LLC*, 283 Mich App 422; 770 NW2d 105 (2009).

24. Under MCL 600.3801, any person or his servant, agent, or employee who owns, leases, conducts, or maintains any building, or place used for any of the purposes or as set forth in this section, is guilty of a nuisance.

25. Under MCL 600.3815, proof of knowledge of the existence of the nuisance on part of the Defendants, or any of them, is not required. *State ex rel Wayne County Prosecutor v Bennis*, 447 Mich 719, 737-739; 527 NW2d 483 (1994).

26. [Specify the unlawful activity in this paragraph] Example: On or about [date], informant/agent made control buys of marihuana from Defendants' business or records from a search warrant show multiple sales of marihuana, Defendants advertise and market their business as a marihuana dispensary, Defendant has incorporated as a marijuana dispensary, etc.

27. That Defendants [operators' names] lease, conduct, maintain, keep, or use [insert business name] for the unlawful manufacture, transporting, sale, keeping for sale, bartering, or furnishing of a controlled substance as defined in section 7104 of the Public Health Code, Act No. 368 of the Public Acts of 1978, being section 333.7104 of the Michigan Compiled Laws.

## COUNT I

### Public Nuisance

28. Plaintiff incorporates by reference the allegations set forth in Paragraphs 1 through [insert paragraph #], as if set forth verbatim herein.

29. The public nuisance statute, MCL 600.3801, in relevant part, defines public nuisances subject to abatement:

Any building . . . or place used for the . . . unlawful manufacture, transporting, sale, keeping for sale, bartering, or furnishing of any controlled substance as defined in section 7104 of the Public Health Code, 1978 PA 368, being section 333.7104 of the Michigan Compiled Laws . . . is declared a nuisance, and the furniture, fixtures, and contents of the building . . . or place . . . are also declared a nuisance, and all controlled substances and nuisances shall be enjoined and abated as provided in this act and as provided in the court rules. Any person or his or her servant, agent, or employee who owns, leases, conducts, or maintains any building, vehicle, or place used for any of the purposes or acts set forth in this section is guilty of a nuisance.

30. Marihuana is a controlled substance under the Public Health Code. MCL 333.7212(1).

31. The building located at [insert business address] and its contents therefore constitute a nuisance.

32. Defendants' conduct violates MCL 600.3801, and must be enjoined as a public nuisance. *McQueen, supra*.

Plaintiff respectfully requests that the Court grant a temporary and permanent injunction against each and all of the Defendants, individually and collectively, to abate and prohibit the public nuisance maintained by them in violation of Michigan law and provide further relief as requested in this complaint.

## COUNT II

### Common Law Nuisance

33. Plaintiff incorporates by reference the allegations set forth in Paragraphs 1 through [insert paragraph #], as if set forth verbatim herein.

34. The public has an interest in the observance of the laws passed by the legislature and to abate public nuisances affecting health, morals, or safety and to protect a public property right or interest. See *Attorney General v PowerPick Player's Club of Michigan*, 287 Mich App 13, 22; 783 NW2d 515 (2010).

35. "At common law, acts in violation of law constitute a public nuisance. Harm to the public is presumed to flow from the violation of a valid statute enacted to preserve public health, safety and welfare." *Attorney General v Peterson*, 381 Mich 445, 465; 164 NW2d 43 (1969).

36. Marihuana is a controlled substance under the Public Health Code. MCL 333.7212(1).

37. The building located at [insert business address] and its contents are used for the unlawful sale, keeping for sale, bartering, or furnishing marihuana.

38. The building located at [insert business address] and its contents therefore constitute a common law nuisance and must be enjoined.

Plaintiff respectfully requests that the Court grant a temporary and permanent injunction against each and all of the Defendants, individually and collectively, to abate and prohibit the public nuisance maintained by them in violation of Michigan law and provide further relief as requested in this complaint.

### **REQUEST FOR RELIEF**

Plaintiff respectfully requests the following:

- a. That the business and property be declared a public and common law nuisance and, under MCL 600.3801, be permanently abated in accordance with MCL 600.3805 and/or MCL 600.3825(1).
- b. That the Court grant a temporary restraining order, preliminary injunction, permanent injunction, and order of abatement enjoining and restraining Defendants and their agents, heirs, successors, officers, employees and anyone acting on their behalf, from unlawfully selling, serving, storing, keeping, manufacturing, or giving away controlled substances on the property because Defendants are not operating within the narrow confines of the MMMA.
- c. That all marihuana and/or controlled substances located, used, or sold at the property or within the possession or constructive possession of Defendants be confiscated or removed by the [insert name] Police Department and be destroyed.
- d. That an order be issued: (1) directing [insert name] Police

Department to remove from the business and/or Defendants' building or place all furniture, fixtures, and contents therein; (2) directing the sale thereof in the manner provided for the sale of chattels under execution; and (3) the effectual closing of the building or place against its use for any purpose, and so keeping it closed for a period of 1 year, pursuant to MCL 600.3825(1).

- e. That costs allowable under the Michigan Court Rules and Michigan statute be awarded.
- f. That reasonable attorney fees be awarded to Plaintiff.
- g. That such other and further relief as the Court may deem just and proper be awarded to Plaintiff.

Respectfully submitted,

[Name of Plaintiff's Counsel]  
[Address of Plaintiff's Counsel]

Dated: [Date]







**MICHIGAN ATTORNEY GENERAL**

**Program on the  
Michigan Medical Marihuana Act**

**MUNICIPAL ISSUES**

November, 2011

Gerald A. Fisher, Professor  
Thomas M. Cooley Law School  
fisherg@cooley.edu

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**ENACTMENT**

The Act: Michigan Medical Marihuana Act,  
enacted by the process of initiative in  
2008

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**ENACTMENT - BALLOT PROPOSAL**

PROPOSAL 08-1

The proposed law would:

- Permit physician approved use of marihuana by registered patients with debilitating medical conditions including cancer, glaucoma, HIV, AIDS, Hepatitis C, MS, and other conditions as may be approved by the Michigan Department of Community Health.
- Permit registered individuals to grow limited amounts of marihuana for qualifying patients in an enclosed, locked facility.
- Require Department of Community Health to establish an identification card system for patients qualified to use marihuana and individuals qualified to grow marihuana.
- Permit registered and unregistered patients and primary caregivers to assert medical reasons for using marihuana as a defense to any prosecution involving marihuana.

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**ACTION BY THE LEGISLATURE**

**AMENDMENT OR REPEAL.** "no law adopted by the people at the polls under the initiative provisions of this [initiative] section shall be amended or repealed, except by a vote of the electors unless otherwise provided in the initiative measure or by *three-fourths of the members elected to and serving in each house of the legislature.*" Michigan Constitution, Art 2, § 9 (Emphasis supplied).

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**KEY PLAYERS IN THE MMMA  
(MCL 333.26424)**

- A QUALIFYING PATIENT
- A PRIMARY CAREGIVER
- **BUT, A PERSON** shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, solely for being in the presence or vicinity of the medical use of marihuana in accordance with this act, or for assisting a registered qualifying patient with using or administering marihuana. MCL 333.26424(i)

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**MCL 333.26426(h)  
CONFIDENTIALITY RULES**

MCL 333.26426(h) **CONFIDENTIALITY RULES**

- Based on an application filed by a patient, who may name a caregiver to assist her or him, the patient and caregiver are issued "registry identification cards" by the State.
- However, the State may not inform anyone – including law enforcement – that a card has been issued to a particular person, or that a caregiver is permitted to cultivate or distribute marihuana at a particular address.

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**If a person has a registry identification card, does this mean that the cultivation, distribution, and use of marihuana by that person is lawful?**

SHORT ANSWER: NO!

LONGER ANSWER:

- Marihuana is a Schedule 1 substance.
- Thus, under the Michigan Public Health Code, and under federal Controlled Substances Act, the cultivation, distribution, and use of marihuana is a criminal offense.
- If a person possesses a registry identification card, AND is in all respects in compliance with the MMMA, the Act provides a defense to a prosecution or other penalty.

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**In other words, the MMMA has created what might be considered to be "parallel universes."**

UNIVERSE NO. 1: The broad universe in which the state and federal *general rule* is that anyone who cultivating, distributing, or using marihuana is committing a crime.

AND

UNIVERSE NO. 2: The narrow universe in which there is an exception for persons with registry cards, who have defenses against punishment,

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**Does the MMMA create an exception that prohibits punishment under federal law?**

SHORT ANSWER: NO!

LONGER ANSWER:

- The feds can prosecute all acts that are crimes under federal law
- Federal policy has not been clear
- There is a question whether the MMMA is valid under the United States Constitution. →

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**Is the MMMA lawful under the United States Constitution?**

The MMMA may be preempted (legally invalidated) by the Supremacy Clause of the United States Constitution?

... the Laws of the United States ... shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, ...

*Art VI, Clause 2*

- *People vs. Lott*
- *People vs. Finney*
- *People vs. Brandon*
- *Ter Beek vs. City of Wyoming*

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**Issues presented for municipalities?**

**IN GENERAL:**

- Can a municipality regulate issues relating to medical marihuana by ordinance?
- If regulation is permitted, what are the choices in the enactment of ordinances?
- How can a municipality enforce its electrical, plumbing, and fire codes when information concerning the identity and location of caregivers and patients is not known?
- How long can a moratorium remain in effect?

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**Can a municipality regulate issues relating to medical marihuana by ordinance?**

**THE BASIC QUESTION:** is local regulation preempted by the MMMA?

- The MMMA does not provide express authority for local ordinances
- Nor does the MMMA specify a prohibition on regulation.
- Also, MMMA does not reflect an implicit intent to serve as the sole source of regulation.
- The opinion of most municipal attorneys is that a municipality is authorized to regulate in a manner that does not conflict with the statute.

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***If regulation is permitted, what are the choices in the enactment of ordinances?***

**Choices:**

- **Do nothing**
- **Recognize and abide by the prohibition under federal law**
- **Enact a zoning ordinance**
- **Enact a regulatory ordinance**

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**POTENTIAL RESPONSES  
BY MUNICIPALITIES**

**LOCAL ORDINANCES**

**POTENTIAL ACTION: DO NOT ADOPT AN ORDINANCE, THE SO-CALLED "DO NOTHING" APPROACH.**

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**POTENTIAL RESPONSES  
BY MUNICIPALITIES**

**LOCAL ORDINANCES**

**ONE ALTERNATIVE EMPLOYED: ADOPT A REGULATORY OR ZONING ORDINANCE RECOGNIZING THE TOTAL PROHIBITION UNDER FEDERAL LAW, AND TAKE NO AFFIRMATIVE ACTION GRANTING PERMITS OR OTHER AUTHORIZATIONS**

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**POTENTIAL RESPONSES  
BY MUNICIPALITIES**

**LOCAL ORDINANCES**

**ADOPT A ZONING ORDINANCE AMENDMENT  
PROVIDING BASIC RESTRICTIONS**

**E.g. restricting distribution activities to one or  
more specified zoning districts**

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**POTENTIAL RESPONSES  
BY MUNICIPALITIES**

**LOCAL ORDINANCES**

**ADOPT A REGULATORY ORDINANCE  
AMENDMENT PROVIDING BASIC  
RESTRICTIONS**

**E.g. restricting distribution activities to  
buildings not used for dwelling purposes**

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**POTENTIAL RESPONSES  
BY MUNICIPALITIES**

**LOCAL ORDINANCES**

**ADOPT A ZONING ORDINANCE AMENDMENT  
PROVIDING DETAILED RESTRICTIONS**

**E.g. restricting distribution activities to  
specified zoning districts and providing  
distance requirements from schools,  
residential zones, and other places  
frequented by children**

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**POTENTIAL RESPONSES  
BY MUNICIPALITIES**

**LOCAL ORDINANCES**

**ADOPT A REGULATORY ORDINANCE  
AMENDMENT PROVIDING DETAILED  
RESTRICTIONS**

E.g. restricting distribution activities to buildings not used for dwelling purposes, establishing minimum distance requirements, and mandating licensure of the building for such activity – after inspection.

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**POTENTIAL RESPONSES  
BY MUNICIPALITIES**

**LOCAL ORDINANCES**

Variations of these approaches, such as restricting, and perhaps licensing, caregiver activities only on a premises approved as a home occupation, with regulations applicable to this home occupation.

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**POTENTIAL RESPONSES  
BY MUNICIPALITIES**

**LOCAL ORDINANCES**

Ordinances to enforce electrical, plumbing, and fire codes triggered by the installation of grow-facilities in a home or non-residential building.

This might be accompanied by a licensing ordinance (which could license the premises, i.e., not the patient or caregiver individually)

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**How long can a moratorium remain in effect?**

- Long-standing case law: a moratorium is not invalid on its face
- May be established for limited period of time while the municipality is diligently undertaking study or related preparatory work for the establishment of a regulatory scheme to protect the public health, safety, and welfare.

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**How long can a moratorium remain in effect?**

Could the enactment of a moratorium, stopping all development of one or more properties for a limited period of time, cause a "taking" of private property without the payment of just compensation?

See, *Tahoe-Sierra Preservation Council, Inc. v. Tahoe Regional Planning Agency*, 535 U.S. 302, 122 S.Ct. 1465, 152 L.Ed.2d 517 (2002)

- Categorical taking?
- *Penn Central* balancing test taking?

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**How long can a moratorium remain in effect?**

Cautionary suggestion:

Include in the language of the moratorium a right for the property owner to allege that the moratorium causes a taking, and the authority for the legislative body to conduct a hearing and, if appropriate, grant sufficient relief from the moratorium in order to cure the taking problem.

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**THE MMMA:  
WHERE DO WE GO FROM HERE?**

*Seek to protect the interests of children under the MMMA, academic, social, and occupational interests.*

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**THE MMMA:  
WHERE DO WE GO FROM HERE?**

It was reported on November 1, 2011 in the Wall Street Journal that a group had submitted a 75,000 signature petition to the White House seeking the president's support for the legalization of marijuana. The report goes on to say that the president rejected the petition, with Gil Kerlikowske, director of the White House Office of National Drug Control Policy saying that research found that marijuana is associated with addiction, respiratory disease and cognitive impairment, and that it possibly affects still-developing brains of people in their 20s.

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**THE MMMA:  
WHERE DO WE GO FROM HERE?**

- *Clarification of the law by the courts.*
- *Resolution of ambiguities by the Legislature*
- *Negotiation of a compromise by representative stakeholders*

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*Clearing the Air: Implementing and Enforcing  
Michigan's Medical Marijuana Law*

**LAW ENFORCEMENT CHALLENGES AND ISSUES**

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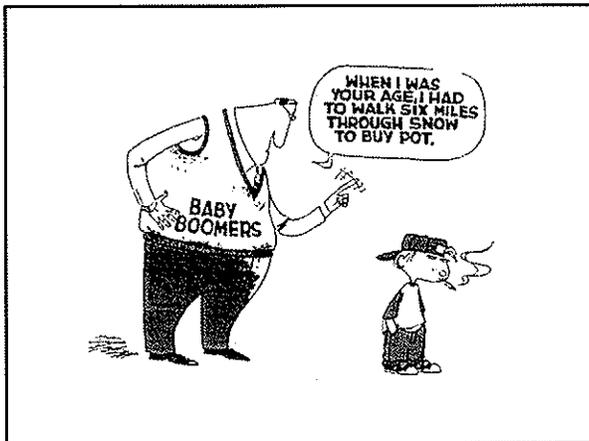
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## Medical Marijuana

Prior to the Court of Appeals ruling, Lansing, with 48 dispensaries, was considered a sanctuary city for "medical marijuana." Michigan Avenue from East Lansing to the State Capital building had 13 dispensaries.

These "Medical Clinics" had names such as HydroWorld, Herbal Connection, Green Cross, Homemade Hydroponics, THC Bakery and Café, Best Buds, Hidden Leaf, and the Kusion.

My two favorite names are Star Buds and Club Med-A-Sin.

One has to wonder just how many truly sick people frequented these stores.

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## Crime Issues

- Crime- number of homicides, robberies and burglaries related to persons involved.  
*-Lansing has had at least three homicides in the past 1-1/2 years related to medical marijuana grow operations.*  
*-What if you lived next door to a grow operation and bad guys accidentally came to your house to commit robbery?*
- Illegal to sell, but legal to buy.  
*Traffickers committing crime but buyers with patient card are not.*
- Price of pot has gone up and so have profits to those selling.  
*Has increased smuggled marijuana.*

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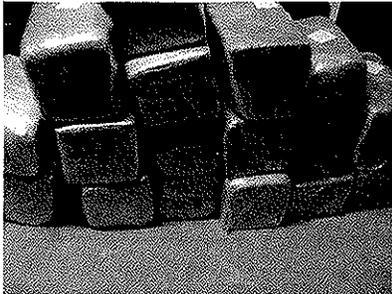
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## Bales of Marijuana



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## Dispensary Issues

Cities have taken many different views and approaches to this issue.

- Some have placed moratoriums on dispensaries, while others have taken no action.
- Others have enacted zoning restrictions, while others have required licensing.
- Some cities have welcomed the dispensaries and some have not.
- Dispensaries in close proximity to schools and churches. In Lansing, a Catholic church shares a parking lot with a dispensary.
- Mixed messages- confusion by all

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MICHIGAN MEDICAL MARIJUANA ASSOCIATION

*Actual Classified Ad on the MMA website as of May 24, 2011*

Call 231-920-0955 and tell us your medical needs. In a short time, one of our motivated team members will rush your delivery discreetly to your door.

Green Logistics is a diverse team of customer driven licensed caregivers who are educated in discreetly finding the best medical marijuana solutions for its' patients.

Green logistics only carries the highest quality medical marijuana and other related supplies. "You call and we deliver!" We offer delivery service 7 days a week. Quoted price includes delivery fee.

Exact Change required. **DRIVERS DO NOT CARRY CASH.**

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## Dispensary Issues

- Dispensing to persons who are not the direct patients of caregiver.
- Selling to persons without cards or other supporting paperwork.
- Dispensaries and unscrupulous doctors conspiring to "sell" bogus doctor certifications. Doctors are not even seeing the person for whom the dispensary has collected money for the certification.

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## Dispensary Issues

- Dispensaries are largely cash businesses  
*Income tax violations, paying employees under the table, sales tax violations?*
- Medical Marijuana food items- "Medibles"  
*Brownies, cookies, candy, THC butter & more. Poses greater risk of use (both intentional and unintentional) by children.*
- Ointments, oils- you name it.

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It wasn't your typical food drive. A medical marijuana dispensary in Michigan was offering free marijuana cigarettes for every four cans of food brought in over the holidays.

It didn't turn out well.....

Those who got the free pot returned within a hour asking for their four cans of foods back.

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### Dispensary Issues

- "Contracting" with people to grow for dispensary.  
*Grower may make \$900 per harvest (3 month period) while the Dispensary may make as much as \$40,000 from the same harvest.*
- "Straw" caregivers/patients.  
*What does this mean? How are dispensaries profiting from this scheme?*

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### Dispensary Issues

- Operators of dispensaries with felony convictions or violent criminal histories.  
*One operator in Lansing had bulletproof glass across the entire front counter. Operator had been out of prison for less than one year after serving 17 years in prison for a double homicide and was still on parole.*
- IP cameras at dispensaries making surveillance on police raids easily monitored by owner on smart phones or remote computer/DVR.  
*Risk to undercover personnel who are not masked from being identified or even having photo placed on websites.*

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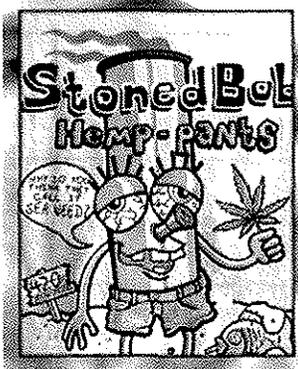
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### Doctor Issues

- Cottage industry for unscrupulous doctors
- Doctors traveling around the state to pre-arranged certification clinics. Many held in hotel rooms. Little, if any interaction with "patient." In some undercover instances, the doctor has conjured up/fabricated the need such as chronic headaches.
- Doctor certifications being given for almost any condition, usually described as "chronic" pain.
- "Everyone" has a card. Wholesale abuse of the doctor certification process and qualifying condition.
- A handful of doctors have certified the majority of patients. Big \$\$\$

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### Grow Operations

- Secure growing location- What is secure and who can have access? A dog kennel fence?
- Warehouses full of plants- multiple cards/people, dope not separate, not tagged, under control of one or two people
- No requirement to grow at your own residence or property. No requirement to register grow locations. Can grow at multiple locations and makes very easy to violate law with respect to number of plants grown.
- Wide range of prosecutor opinions on what should be seized when violations found. Some say seize everything- need to show that they were over the limit. Others advise to only seize the excess because they have a right to have a certain amount.
- What plants should police seize? The big ones, the little ones? Do we leave the grow equipment or seize all or part of it? Big dilemma.

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## Grow Operations

- Many of the grow operations totally destroy rental homes.  
*Mold, mildew, unauthorized renovations, dangerous wiring, etc.*
- Health issues for those living on premises where plants grown due to chemicals and molds.
- No requirement to grow at your own residence or property.
- No requirement to register grow locations. Can grow at multiple locations. Makes it very easy to violate law and grow beyond limit.

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## Patient/Caregiver Card Issues

- Backlog processing cards- applications are difficult to deal with because you often do not know if they were actually sent in and have no way to determine if they were denied.
- Limitations on information provided to law enforcement to determine status.  
*Must have card and patient/caregiver number to inquire.*  
*Cannot check address or name to determine in advance whether person has any legal status.*  
*Cannot determine whether a caregiver has growing rights and how many patients without actual cards in hand.*  
*Cannot determine what doctors are likely involved in illegal certification process.*  
*No photo on cards.*

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## Issues/Problems

- No provision preventing convicted drug felons from obtaining patient card and no provision to revoke patient card of person violating the MMMA.
- Person only have copy of application or missing documentation.
- Card holders & weapons. Concealed Pistol License holders? Is it legal given federal law?
- Effective treatment of probationers in drug/alcohol courts when person has MM Card?
- Modifying/changing MMMA rules is difficult due to the requirements of law

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## Lawsuits

- Lawsuits against drug teams and police agencies seizing plants.
- Lawsuits for value of plants seized if not charged, case dismissed, etc. At \$1,000 or more per plant, this could result in major costs aside from the legal representation.
- Diminished or limited financial resources at drug teams and police agencies to fight lawsuits.

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## Recent Issue

- Out of State residents obtaining Michigan patient cards.  
*Rent a house, use rental receipt to get Michigan drivers license, apply for card, set up grow at rental house, grow free of fear of prosecution in Michigan during grow process, still live in neighbor state, transport harvested dope back to home state to sell. Greatly reduces risk of detection/arrest.*

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**Employment & Training**

**Former Marijuana Smuggler**

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**Background Information** ... ..

**Activities** ... ..

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*For More Information, Please Contact:*  
**D/F/Lt. Timothy Gill or D/Lt. Robyn Lynde**  
**(517) 394-5588**

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**Suggested Legislative Changes to MMMA**

**Sec. 2. Accurately describes**

1. Health effects of marihuana
2. Intent of the legislation
3. Legal risks that users face

**Sec. 3. Clarifies definitions**

1. Adds "institution of higher education"
2. Caregiver cannot be a felon

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**Suggested Legislative Changes to MMMA**

**Sec. 3a. "Bona fide" physician-patient relationship**

1. Medical history
2. Physical examination
3. Review of prior treatment
4. Review of diagnostic tests
5. Make sure patient understands effects
6. Monitor the patient
7. Create and maintain records
8. Notify primary physician

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**Suggested Legislative Changes to MMMA**

**Sec. 4.**

1. Revokes registry card for non-medical transfer of marihuana or transfers of marihuana in violation of the law
2. Prohibits physician conflict of interest with marihuana providers.

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**Suggested Legislative Changes to MMMA**

**Sec. 6. Registry identification cards**

1. Homeless users must tell where their general residence is
2. Patient must give the address of where their marihuana is kept
3. Patient gives implied consent for warrantless administrative inspections of where their marihuana is kept
4. Photograph must be on card
5. Information on the card is sent to Michigan State Police for entry into the LEIN system
6. Mandatory revocation or suspension for knowingly violating the law
7. Hearings process for revocation or suspension

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**Suggested Legislative Changes to MMMA**

**Sec. 7. Medical use of marihuana**

1. Cannot undertake a task that would harm another person
2. Cannot use on the grounds of any child care facility or educational institution, including any institution of higher education
3. Cannot operate a motor vehicle with any amount of marihuana in your system
4. May not be grown in an area where zoning prohibits it
5. No entity is required to reimburse for the medical use of marihuana

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**Suggested Legislative Changes to the Penal Code**

1. Felony to make a false representation on an application
2. 14-year felony to alter a registry identification card
3. Felony to possess or use a card that is not your own or transfer a card
4. Misdemeanor if not reported lost or stolen
5. Misdemeanor to advertise marihuana services (HB 4854—Rep. Haveman)
6. Misdemeanor to transport in a motor vehicle unless enclosed like a gun (HB 4856—Rep. Glardon)

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**Suggested Legislative Changes to the Insurance Code**

- 1. Medical marihuana use may be a factor in car insurance and personal injury protection**
- 2. Workers Compensation not required to cover use of Medical Marihuana (SB 321—Sen. Jones)**

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## Suggested Changes to the Medical Marihuana Law

Sec. 1. This act shall be known and may be cited as the Michigan Medical Marihuana Act.

Sec. 2. The people of the State of Michigan find and declare that:

- (a) Modern medical research, including as found by the National Academy of Sciences' Institute of Medicine in a March 1999 report, has discovered **some evidence of beneficial uses for naturally occurring cannabinoids contained in marihuana** in alleviating the pain, nausea, and other symptoms associated with a variety of debilitating medical conditions.
- (b) **This act is intended to protect from arrest under state law the vast majority of people engaged in the medical use of marihuana in order to alleviate symptoms caused by a debilitating medical condition.**
- (c) Federal law currently prohibits any use of marihuana except under very limited circumstances **involving approved research programs. Michigan citizens who engage in the medical use of marihuana put their liberty and property at risk of penalty under federal law. The federal government maintains its authority over trafficking of controlled substances and does not recognize a defense for medical use.** The state laws of Alaska, **Arizona**, California, Colorado, **Deleware**, Hawaii, Maine, Montana, Nevada, **New Jersey**, New Mexico, Oregon, Vermont, Rhode Island, and **the State of Washington continue to penalize the use of marihuana but these states have created statutory protections from prosecution and arrest under state law for certain groups of people suffering from debilitating medical conditions.** Michigan joins in this.

Sec. 3. As used in this act:

- (a) "Debilitating medical condition" means **glaucoma or 1 or more of the following:**
  - (1) Cancer, positive status for human immunodeficiency virus (**HIV**), acquired immune deficiency syndrome (**AIDS**), hepatitis C, amyotrophic lateral sclerosis, Crohn's disease, agitation of Alzheimer's disease, nail patella, **epilepsy, multiple sclerosis**, or the treatment of these conditions **or symptoms from these conditions but only if associated with cachexia, severe and chronic pain, severe nausea, seizures, or severe and persistent muscle spasms in the patient.**

## Current Medical Marihuana Law

Sec. 1. This act shall be known and may be cited as the Michigan Medical Marihuana Act.

Sec. 2. The people of the State of Michigan find and declare that:

- (a) Modern medical research, including as found by the National Academy of Sciences' Institute of Medicine in a March 1999 report, has discovered beneficial uses for marihuana in treating or alleviating the pain, nausea, and other symptoms associated with a variety of debilitating medical conditions.
- (b) Data from the Federal Bureau of Investigation Uniform Crime Reports and the Compendium of Federal Justice Statistics show that approximately 99 out of every 100 marihuana arrests in the United States 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 people who have a medical need to use marihuana.
- (c) Although federal law currently prohibits any use of marihuana except under very limited circumstances, states are not required to enforce federal law or prosecute people for engaging in activities prohibited by federal law. The laws of Alaska, California, Colorado, Hawaii, Maine, Montana, Nevada, New Mexico, Oregon, Vermont, Rhode Island, and Washington do not penalize the medical use and cultivation of marihuana. Michigan joins in this effort for the health and welfare of its citizens.

Sec. 3. As used in this act:

- (a) "Debilitating medical condition" means 1 or more of the following:
  - (1) 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, nail patella, or the treatment of these conditions.

## Suggested Changes to the Medical Marihuana Law

- (2) **If approved by the department as provided for in section 5(a), any other medical condition or its treatment or symptoms from that condition but only if associated with cachexia, severe and chronic pain, severe nausea, seizures, or severe and persistent muscle spasms in the patient as approved by the department, as provided for in section 5(a).**
- (b) "Department" means the state department of **licensing and regulatory affairs.**
- (c) "Enclosed, locked facility" means a closet, room, or other **comparable, completely** enclosed area, **containing a maximum of 12 marihuana plants,** equipped with **secured** locks or other **functioning** security devices that permit access **to only one of the following:**
- (1) **the registered primary caregiver who is assisting the qualifying patient to whom he or she is connected through the department's registration process, or**
  - (2) **the registered qualifying patient.**
- (d) "Institution of higher education" means **1 or more of the following:**
- (1) **A public or private community college, college, or university.**
  - (2) **A public or private trade, vocational, or occupational school.**
- (e) "Marihuana" means that term as defined in section 7106 of the public health code, 1978 PA 368, MCL 333.7106.
- (f) "Medical use" means the acquisition, possession, cultivation, manufacture, use, internal possession, delivery, or transportation of marihuana or the use of paraphernalia relating to the administration of marihuana to alleviate a registered qualifying patient's debilitating medical condition.
- (g) "Physician" means an individual licensed as a physician under Part 170 of the public health code, 1978 PA 368, MCL 333.17001 to 333.17084, or an osteopathic physician under Part 175 of the public health code, 1978 PA 368, MCL 333.17501 to 333.17556.
- (h) "Primary caregiver" or **"caregiver"** means a person who is at least 21 years old, **who is assisting the qualifying patient to whom he or she is connected through the department's registration process,**

## Current Medical Marihuana Law

- (2) A chronic or debilitating disease or medical condition or its treatment that produces 1 or more of the following: cachexia or wasting syndrome; severe and chronic pain; severe nausea; seizures, including but not limited to those characteristic of epilepsy; or severe and persistent muscle spasms, including but not limited to those characteristic of multiple sclerosis.
- (3) Any other medical condition or its treatment approved by the department, as provided for in section 5(a).
- (b) "Department" means the state department of community health.
- (c) "Enclosed, locked facility" means a closet, room, or other enclosed area equipped with locks or other security devices that permit access only by a registered primary caregiver or registered qualifying patient.
- (d) "Marihuana" means that term as defined in section 7106 of the public health code, 1978 PA 368, MCL 333.7106.
- (e) "Medical use" means the acquisition, possession, cultivation, manufacture, use, internal possession, delivery, transfer, or transportation of marihuana or paraphernalia relating to the administration of marihuana to treat or alleviate a registered qualifying patient's debilitating medical condition or symptoms associated with the debilitating medical condition.
- (f) "Physician" means an individual licensed as a physician under Part 170 of the public health code, 1978 PA 368, MCL 333.17001 to 333.17084, or an osteopathic physician under Part 175 of the public health code, 1978 PA 368, MCL 333.17501 to 333.17556.
- (g) "Primary caregiver" means a person who is at least 21 years old and who has agreed to assist with a patient's medical use of marihuana and who has

## Suggested Changes to the Medical Marihuana Law

who has agreed to assist with a patient's medical use of marihuana, **who has a valid registry identification card**, and who has never been convicted of a felony.

- (i) "Qualifying patient" or **"patient"** means a person who has been diagnosed by a physician as having a debilitating medical condition **and who has a valid registry identification card**.
- (j) "Registry identification card" means a document issued by the department that identifies a person as a registered qualifying patient or registered primary caregiver.
- (k) "Usable marihuana" means the dried leaves and flowers of the marihuana plant, and any mixture or preparation thereof, but does not include the seeds, stalks, and roots of the plant.
- (l) "Visiting qualifying patient" means a patient who is not a resident of this state or who has been a resident of this state for less than 30 days.
- (m) "Written certification" means a document signed by a physician, stating **all of the following**:
  - (1) **the patient's debilitating medical condition.**
  - (2) **that the physician has established a bonafide physician-patient relationship with the patient.**
  - (3) **that, in the physician's professional opinion, the patient is likely to receive therapeutic or palliative benefit from the medical use of marihuana to alleviate the patient's debilitating medical condition.**

### SEC. 3A.

- (a) **For purposes of this act, a physician-patient relationship is not bona fide unless the physician has done all of the following with respect to the patient:**
  - (1) **taken a medical history.**
  - (2) **performed a relevant physical examination.**
  - (3) **reviewed prior treatment and treatment responses.**
  - (4) **obtained and reviewed relevant diagnostic test results.**
  - (5) **discussed advantages, disadvantages, alternatives, potential adverse effects, and the expected response to the recommended treatment and made reasonable efforts to ensure that the patient understands that information.**

## Current Medical Marihuana Law

never been convicted of a felony involving illegal drugs.

- (h) "Qualifying patient" means a person who has been diagnosed by a physician as having a debilitating medical condition.
- (i) "Registry identification card" means a document issued by the department that identifies a person as a registered qualifying patient or registered primary caregiver.
- (j) "Usable marihuana" means the dried leaves and flowers of the marihuana plant, and any mixture or preparation thereof, but does not include the seeds, stalks, and roots of the plant.
- (k) "Visiting qualifying patient" means a patient who is not a resident of this state or who has been a resident of this state for less than 30 days.
- (l) "Written certification" means a document signed by a physician, stating the patient's debilitating medical condition and stating that, in the physician's professional opinion, the patient is likely to receive therapeutic or palliative benefit from the medical use of marihuana to treat or alleviate the patient's debilitating medical condition or symptoms associated with the debilitating medical condition.

- (6) provided for monitoring the patient to determine the response to and anyside effects of the treatment.
  - (7) created and maintained records for the patient.
  - (8) notified the patient's primary care physician, if any, of any written marihuana certification provided.
- (b) Notwithstanding any other provision in this act, if a physician provides written certification in support of a registry identification card application without fir establishing a bona fide physician-patient relationship as described in subsection (a), both of the following apply:
- (1) The registry identification card is not valid and provides no defense to a criminal prosecution under the laws of this state.
  - (2) The certifying physician may not assert any protection otherwise provided in this act in a civil action or in a professional disciplinary or licensing proceeding.

## Sec. 4.

- (a) A qualifying patient who has been issued and possesses a **valid** registry identification card shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, for the medical use of marihuana in accordance with this act, provided that the qualifying patient possesses an amount of marihuana that does not exceed 2.5 ounces of usable marihuana, and, if the qualifying patient has not specified that a primary caregiver will be allowed under state law to cultivate marihuana for the qualifying patient, 12 marihuana plants kept in an enclosed, locked facility. Any incidental amount of seeds, stalks, and unusable roots shall also be allowed under **this act** and shall not be included in this amount.
- (b) A primary caregiver who has been issued and possesses a **valid** registry identification card shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to civil penalty or disciplinary action by a business or occupational or

## Sec. 4.

- (a) A qualifying patient who has been issued and possesses a registry identification card shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, for the medical use of marihuana in accordance with this act, provided that the qualifying patient possesses an amount of marihuana that does not exceed 2.5 ounces of usable marihuana, and, if the qualifying patient has not specified that a primary caregiver will be allowed under state law to cultivate marihuana for the qualifying patient, 12 marihuana plants kept in an enclosed, locked facility. Any incidental amount of seeds, stalks, and unusable roots shall also be allowed under state law and shall not be included in this amount.
- (b) A primary caregiver who has been issued and possesses a registry identification card shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to civil penalty or disciplinary action by a business or occupational or professional

## Suggested Changes to the Medical Marihuana Law

professional licensing board or bureau, for assisting a qualifying patient to whom he or she is connected through the department's registration process with the medical use of marihuana in accordance with this act, provided that the primary caregiver possesses an amount of marihuana that does not exceed:

- (1) 2.5 ounces of usable marihuana for each qualifying patient to whom he or she is connected through the department's registration process; and
  - (2) for each registered qualifying patient who has specified that the primary caregiver will be allowed under state law to cultivate marihuana for the qualifying patient, 12 marihuana plants kept in an enclosed, locked facility; and
  - (3) any incidental amount of seeds, stalks, and unusable roots.
- (c) A person shall not be denied custody or visitation of a minor for acting in accordance with this act, unless the person's behavior is such that it creates an unreasonable danger to the minor that can be clearly articulated and substantiated.
- (d) There shall be a presumption that a qualifying patient or primary caregiver is engaged in the medical use of marihuana in accordance with this act if the qualifying patient or primary caregiver:
- (1) is in possession of a **valid** registry identification card; and
  - (2) is in possession of an amount of marihuana that does not exceed the amount allowed under this ~~act~~**section**. The presumption may be rebutted by evidence that conduct related to marihuana was not for the purpose of alleviating the qualifying patient's debilitating medical in accordance with this act.
- (e) A registered primary caregiver may receive compensation for costs associated with assisting **his or her** registered qualifying patient **to whom the registered primary caregiver is connected through the department's registration process** in the medical use of marihuana. Any such compensation shall not constitute the sale of **marihuana**.
- (f) **Subject to subsection (3)(f), a physician is not** subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to civil penalty or disciplinary action by the Michigan board of medicine, the Michigan board of osteopathic medicine and surgery, or any other business or occupational or professional

## Current Medical Marihuana Law

licensing board or bureau, for assisting a qualifying patient to whom he or she is connected through the department's registration process with the medical use of marihuana in accordance with this act, provided that the primary caregiver possesses an amount of marihuana that does not exceed:

- (1) 2.5 ounces of usable marihuana for each qualifying patient to whom he or she is connected through the department's registration process; and
  - (2) for each registered qualifying patient who has specified that the primary caregiver will be allowed under state law to cultivate marihuana for the qualifying patient, 12 marihuana plants kept in an enclosed, locked facility; and
  - (3) any incidental amount of seeds, stalks, and unusable roots.
- (c) A person shall not be denied custody or visitation of a minor for acting in accordance with this act, unless the person's behavior is such that it creates an unreasonable danger to the minor that can be clearly articulated and substantiated.
- (d) There shall be a presumption that a qualifying patient or primary caregiver is engaged in the medical use of marihuana in accordance with this act if the qualifying patient or primary caregiver:
- (1) is in possession of a registry identification card; and
  - (2) is in possession of an amount of marihuana that does not exceed the amount allowed under this act. The presumption may be rebutted by evidence that conduct related to marihuana was not for the purpose of alleviating the qualifying patient's debilitating medical condition or symptoms associated with the debilitating medical condition, in accordance with this act.
- (e) A registered primary caregiver may receive compensation for costs associated with assisting a registered qualifying patient in the medical use of marihuana. Any such compensation shall not constitute the sale of controlled substances.
- (f) A physician shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to civil penalty or disciplinary action by the Michigan board of medicine, the Michigan board of osteopathic medicine and surgery, or any other business or occupational or professional licensing board or bureau, solely for providing written certifications, in the course of a bona fide physician-patient licensing

## Suggested Changes to the Medical Marihuana Law

board or bureau, solely for providing written certifications, in the course of a bona fide physician-patient relationship **as defined in section 3a** or for otherwise stating that, in the physician's professional opinion, a patient is likely to receive therapeutic or palliative benefit from the medical use of marihuana to ~~treat or~~ alleviate the patient's debilitating medical condition, provided that nothing **in this act** shall prevent a professional licensing board from sanctioning a physician for **otherwise violating the public health code**.

- (g) A person shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, for providing a registered qualifying patient or a registered primary caregiver with marihuana paraphernalia for purposes of a qualifying patient's medical use of marihuana.
- (h) Any marihuana, marihuana paraphernalia, or licit property that is possessed, owned, or, **except** as allowed under this act, **may** be seized or forfeited.
- (i) A person shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, solely for being in the presence or vicinity of the medical use of marihuana in accordance with this act, or for assisting a registered qualifying patient with using or administering marihuana **for medical use. For purposes of this act, "using or administering marihuana for medical use" means assisting a registered qualified patient who is physically unable to engage in the medical use of marihuana because of his or her debilitating medical condition in preparing marihuana to be consumed in any of the various ways that marihuana is commonly consumed For medical use or by physically aiding that patient in his or her medical use of marihuana.**
- (j) A **valid** registry identification card, or its equivalent, that is issued under the laws of another state, district, territory, commonwealth, or insular possession of the United States that allows the medical use of marihuana by a visiting qualifying patient, or to allow a person to assist with a visiting qualifying patient's medical use of marihuana, shall

## Current Medical Marihuana Law

relationship and after the physician has completed a full assessment of the qualifying patient's medical history, or for otherwise stating that, in the physician's professional opinion, a patient is likely to receive therapeutic or palliative benefit from the medical use of marihuana to treat or alleviate the patient's serious or debilitating medical condition or symptoms associated with the serious or debilitating medical condition, provided that nothing shall prevent a professional licensing board from sanctioning a physician for failing to properly evaluate a patient's medical condition or otherwise violating the standard of care for evaluating medical conditions.

- (g) A person shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, for providing a registered qualifying patient or a registered primary caregiver with marihuana paraphernalia for purposes of a qualifying patient's medical use of marihuana.
- (h) Any marihuana, marihuana paraphernalia, or licit property that is possessed, owned, or used in connection with the medical use of marihuana, as allowed under this act, or acts incidental to such use, shall not be seized or forfeited.
- (i) A person shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, solely for being in the presence or vicinity of the medical use of marihuana in accordance with this act, or for assisting a registered qualifying patient with using or administering marihuana.
- (j) A registry identification card, or its equivalent, that is issued under the laws of another state, district, territory, commonwealth, or insular possession of the United States that allows the medical use of marihuana by a visiting qualifying patient, or to allow a person to assist with a visiting qualifying patient's medical use of marihuana, shall have the

## Suggested Changes to the Medical Marihuana Law

have the same force and effect as a **valid** registry identification card issued by the department.

- (k) **in addition to any other penalties, any patient or caregiver who engages in any non-medical use of marihuana or any patient or caregiver who sells or transfers marihuana to another patient or caregiver except as specifically allowed by this act shall have his or her registry identification card revoked and is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00, or both.** Any registered qualifying patient or registered primary caregiver who **sells** **provides** marihuana to someone who **does not have a valid registry identification card** under this act shall have his or her registry identification card revoked and is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than \$2,000.00, or both, in addition to any other penalties for the distribution of marihuana.
- (l) **a physician shall not do any of the following:**
- (1) **offer a discount or any other thing of value to a patient or any other person in consideration of the patient PROCURING OR agreeing to procure marihuana for medical use from a particular caregiver.**
  - (2) **Accept or solicit anything of value from any person in consideration of referring a patient to a particular caregiver.**

### Sec. 5.

(a) The department shall promulgate rules pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, that govern the manner in which the department shall consider additions to the list of debilitating medical conditions set forth in section 3(a) of this act. In promulgating rules, the department shall allow for petition by the public to include additional **debilitating** medical conditions. In considering such petitions, the department shall include public notice of, and an opportunity to comment in a public hearing upon, such petitions. The department shall, after hearing, approve or deny such petitions within 180 days of the submission of the petition. The approval or denial of such a petition shall be considered a final department action, subject to judicial review pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201

## Current Medical Marihuana Law

same force and effect as a registry identification card issued by the department.

- (k) Any registered qualifying patient or registered primary caregiver who sells marihuana to someone who is not allowed to use marihuana for medical purposes under this act shall have his or her registry identification card revoked and is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than \$2,000.00, or both, in addition to any other penalties for the distribution of marihuana.

### Sec. 5.

(a) Not later than 120 days after the effective date of this act, the department shall promulgate rules pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, that govern the manner in which the department shall consider the addition of medical conditions or treatments to the list of debilitating medical conditions set forth in section 3(a) of this act. In promulgating rules, the department shall allow for petition by the public to include additional medical conditions and treatments. In considering such petitions, the department shall include public notice of, and an opportunity to comment in a public hearing upon, such petitions. The department shall, after hearing, approve or deny such petitions within 180 days of the submission of the petition. The approval or denial of such a petition shall be considered a final department action, subject to judicial review to

## Suggested Changes to the Medical Marihuana Law

24.328. Jurisdiction and venue for judicial review are vested in the circuit court for the county of Ingham.

- (b) The department shall promulgate rules pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, that govern the manner in which it shall consider applications for and renewals of registry identification cards for qualifying patients and primary caregivers **and any other rules concerning the department's implementation, administration, or enforcement of this act.** The department's rules shall establish application and renewal fees that generate revenues sufficient to offset all expenses of implementing and administering this act. The department may establish a sliding scale of application and renewal fees based upon a qualifying patient's family income. The department may accept gifts, grants, and other donations from private sources in order to reduce the application and renewal fees.

### Sec. 6.

- (a) The department shall issue registry identification cards to qualifying patients who submit the following, in accordance with the department's rules:
- (1) A written certification;
  - (2) Application or renewal fee;
  - (3) Name, address, and date of birth of the qualifying patient, except that if the applicant is homeless, no address is required, **but the applicant must specify the village, city, or township where the applicant spends or will spend the majority of his or her time;**
  - (4) Name, address, and telephone number of the qualifying patient's physician;
  - (5) Name, address, and date of birth of the qualifying patient's primary **designated** caregiver, if any; and
  - (6) If the qualifying patient designates a primary caregiver, a designation as to whether the qualifying patient or primary caregiver will be allowed under **this act** to possess marihuana plants for the qualifying patient's medical use, **and the address of the enclosed, locked facility at which the marihuana plants for medical use will be kept.**
  - (7) **the address of the enclosed, locked facility at which usable marihuana for medical use for the qualifying patient will be kept.**

## Current Medical Marihuana Law

pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. Jurisdiction and venue for judicial review are vested in the circuit court for the county of Ingham.

- (b) Not later than 120 days after the effective date of this act, the department shall promulgate rules pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, that govern the manner in which it shall consider applications for and renewals of registry identification cards for qualifying patients and primary caregivers. The department's rules shall establish application and renewal fees that generate revenues sufficient to offset all expenses of implementing and administering this act. The department may establish a sliding scale of application and renewal fees based upon a qualifying patient's family income. The department may accept gifts, grants, and other donations from private sources in order to reduce the application and renewal fees.

### Sec. 6.

- (a) The department shall issue registry identification cards to qualifying patients who submit the following, in accordance with the department's rules:
- (1) A written certification;
  - (2) Application or renewal fee;
  - (3) Name, address, and date of birth of the qualifying patient, except that if the applicant is homeless, no address is required;
  - (4) Name, address, and telephone number of the qualifying patient's physician;
  - (5) Name, address, and date of birth of the qualifying patient's primary caregiver, if any; and
  - (6) If the qualifying patient designates a primary caregiver, a designation as to whether the qualifying patient or primary caregiver will be allowed under state law to possess marihuana plants for the qualifying patient's medical use.

## Suggested Changes to the Medical Marihuana Law

- (b) **Acceptance of a registry identification card under this act constitutes implied consent by the qualifying patient or caregiver for the department to conduct warrantless administrative inspections of the enclosed, locked facility at which marihuana for medical use will be kept. A person who refuses to permit an inspection authorized under this act shall have his or her registry identification card revoked.**
- (c) The department shall not issue a registry identification card to a qualifying patient who is under the age of 18 unless:
- (1) The qualifying patient's physician has explained the potential risks and benefits of the medical use of marihuana to the qualifying patient and to his or her parent or legal guardian;
  - (2) The qualifying patient's parent or legal guardian submits a written certification from 2 physicians; and
  - (3) The qualifying patient's parent or legal guardian consents in writing to:
    - (A) Allow the qualifying patient's medical use of marihuana;
    - (B) Serve as the qualifying patient's primary caregiver; and
    - (C) Control the acquisition of the marihuana, the dosage, and the frequency of the medical use of marihuana by the qualifying patient.
- (d) The department shall verify the information contained in an application or renewal submitted pursuant to this section, and shall approve or deny an application or renewal within 15 days of receiving it. The department may deny an application or renewal if the applicant did not provide the information required pursuant to this section, or if the department determines that the information provided was falsified **or if the applicant had a previous registration card revoked**. Rejection of an application or renewal is considered a final department action, subject to judicial review. Jurisdiction and venue for judicial review are vested in the circuit court for the county of Ingham.
- (e) The department shall issue a registry identification card to the primary caregiver, if any, who is named in a qualifying patient's approved application; provided that each qualifying patient can have no more than 1 primary caregiver, and a primary caregiver may assist no more than 5 qualifying patients **to whom he or she is connected**

## Current Medical Marihuana Law

- (b) The department shall not issue a registry identification card to a qualifying patient who is under the age of 18 unless:
- (1) The qualifying patient's physician has explained the potential risks and benefits of the medical use of marihuana to the qualifying patient and to his or her parent or legal guardian;
  - (2) The qualifying patient's parent or legal guardian submits a written certification from 2 physicians; and
  - (3) The qualifying patient's parent or legal guardian consents in writing to:
    - (A) Allow the qualifying patient's medical use of marihuana;
    - (B) Serve as the qualifying patient's primary caregiver; and
    - (C) Control the acquisition of the marihuana, the dosage, and the frequency of the medical use of marihuana by the qualifying patient.
- (c) The department shall verify the information contained in an application or renewal submitted pursuant to this section, and shall approve or deny an application or renewal within 15 days of receiving it. The department may deny an application or renewal only if the applicant did not provide the information required pursuant to this section, or if the department determines that the information provided was falsified. Rejection of an application or renewal is considered a final department action, subject to judicial review. Jurisdiction and venue for judicial review are vested in the circuit court for the county of Ingham.
- (d) The department shall issue a registry identification card to the primary caregiver, if any, who is named in a qualifying patient's approved application; provided that each qualifying patient can have no more than 1 primary caregiver, and a primary caregiver may assist no more than 5 qualifying patients with their medical use of marihuana.

## Suggested Changes to the Medical Marihuana Law

through the department's registration process with their medical use of marihuana.

(f) The department shall issue registry identification cards within 5 days of approving an application or renewal, which shall expire 1 year after the date of issuance. **Within 48 hours after issuing a registry identification card, the department shall forward information concerning issuance of the card to the department of state police for entry into the law enforcement information network.** Registry identification cards shall contain all of the following:

- (1) Name, address, and date of birth of the qualifying patient.
- (2) Name, address, and date of birth of the primary caregiver, if any, of the qualifying patient.
- (3) The date of issuance and expiration date of the registry identification card.
- (4) A random identification number.
- (5) A photograph.
- (6) A clear designation showing whether the primary caregiver or the qualifying patient will be allowed under **this act** to possess the marihuana plants for the qualifying patient's medical use, which shall be determined based solely on the qualifying patient's preference, **and the address of the enclosed, locked facility at which the marihuana plants for medical use will be kept.**

(g) If a registered qualifying patient's certifying physician notifies the department in writing that the patient has ceased to suffer from a debilitating medical condition, the card shall become null and void upon notification by the department to the patient.

(h) **Except as to administrative inspections authorized under subsection (a) (8), possession of, or application for, a valid registry identification card shall not constitute probable cause or reasonable suspicion, nor shall it be used to support the search of the person or property of the person possessing or applying for the registry identification card, or otherwise subject the person or property of the person to inspection by any local, county or state governmental agency.**

(i) The following confidentiality rules shall apply:

- (1) Applications and supporting information submitted by qualifying patients, including information regarding their primary caregivers and physicians, are confidential.

## Current Medical Marihuana Law

(e) The department shall issue registry identification cards within 5 days of approving an application or renewal, which shall expire 1 year after the date of issuance. Registry identification cards shall contain all of the following:

- (1) Name, address, and date of birth of the qualifying patient.
- (2) Name, address, and date of birth of the primary caregiver, if any, of the qualifying patient.
- (3) The date of issuance and expiration date of the registry identification card.
- (4) A random identification number.
- (5) A photograph, if the department requires 1 by rule.
- (6) A clear designation showing whether the primary caregiver or the qualifying patient will be allowed under state law to possess the marihuana plants for the qualifying patient's medical use, which shall be determined based solely on the qualifying patient's preference.

(f) If a registered qualifying patient's certifying physician notifies the department in writing that the patient has ceased to suffer from a debilitating medical condition, the card shall become null and void upon notification by the department to the patient.

(g) Possession of, or application for, a registry identification card shall not constitute probable cause or reasonable suspicion, nor shall it be used to support the search of the person or property of the person possessing or applying for the registry identification card, or otherwise subject the person or property of the person to inspection by any local, county or state governmental agency.

(h) The following confidentiality rules shall apply:

- (1) Applications and supporting information submitted by qualifying patients, including information regarding their primary caregivers and physicians, are confidential.

## Suggested Changes to the Medical Marihuana Law

- (2) The department shall maintain a confidential list of the persons to whom the department has issued registry identification cards. Individual names and other identifying information on the list is confidential and is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.
- (3) **The department shall not allow any person access to any information about patients in the department's confidential list of persons to whom the department has issued valid registry identification cards or otherwise maintained by the department concerning physicians and primary caregivers, except for the following:**
  - (a) **employees or agents of the department in the course of their official duties.**
  - (b) **law enforcement employees and people who are permitted access to the law enforcement information system in the course of their official duties.**
  - (c) **pursuant to a valid court order, search warrant, or as may otherwise be required under state or federal law.**
- (4) A person, including an employee or official of the department or another state agency or local unit of government, who discloses confidential information in violation of this act **shall be punished by** a fine of not more than **\$500.00**. Notwithstanding this provision, department employees **shall** notify law enforcement about falsified or fraudulent information submitted to the department.
- (j) The department shall submit to the legislature an annual report that does not disclose any identifying information about qualifying patients, primary caregivers, or physicians, but does contain, at a minimum, all of the following information:
  - (1) The number of applications filed for registry identification cards.
  - (2) The number of qualifying patients and primary caregivers approved in each county.
  - (3) The nature of the debilitating medical conditions of the qualifying patients.
  - (4) The number of registry identification cards revoked.
  - (5) The number of physicians providing written certifications for qualifying patients.

## Current Medical Marihuana Law

- (2) The department shall maintain a confidential list of the persons to whom the department has issued registry identification cards. Individual names and other identifying information on the list is confidential and is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.
- (3) The department shall verify to law enforcement personnel whether a registry identification card is valid, without disclosing more information than is reasonably necessary to verify the authenticity of the registry identification card.
- (4) A person, including an employee or official of the department or another state agency or local unit of government, who discloses confidential information in violation of this act is guilty of a misdemeanor, punishable by imprisonment for not more than 6 months, or a fine of not more than \$1,000.00, or both. Notwithstanding this provision, department employees may notify law enforcement about falsified or fraudulent information submitted to the department.
- (i) The department shall submit to the legislature an annual report that does not disclose any identifying information about qualifying patients, primary caregivers, or physicians, but does contain, at a minimum, all of the following information:
  - (1) The number of applications filed for registry identification cards.
  - (2) The number of qualifying patients and primary caregivers approved in each county.
  - (3) The nature of the debilitating medical conditions of the qualifying patients.
  - (4) The number of registry identification cards revoked.
  - (5) The number of physicians providing written certifications for qualifying patients.

**Suggested Changes to the Medical Marihuana Law**

**Current Medical Marihuana Law**

- (6) Scientific reports and research on the medical use of marihuana for debilitating medical conditions.
- (k) The department shall suspend or revoke the registry identification card of an individual who the department determines has knowingly violated this act or attempted to violate, directly or indirectly, assisted in or abetted the violation of, or conspired to violate this act or rules of the Department promulgated under this act.
- (l) The department shall give written notice of a hearing on the proposed suspension or revocation to the registrant affected. The notice shall set a time of hearing at the department and shall be by personal service or by certified mail delivered to the registrant's last known address. At the hearing, the registrant may present evidence to the department regarding the alleged violations, and the department shall render a decision within a reasonable time. A registrant may appeal the department's determination to suspend or revoke his or her registry identification card to the circuit court for the county of Ingham. If a registrant's registry identification card is revoked or suspended, the registration card of the primary caregiver connected with the registrant through the department's registration process shall also be revoked or suspended, as applicable. The department shall immediately notify the department of state police of any suspension or revocation of a registry identification card. The department of state police shall enter on the law enforcement information system that the registrant's registry identification card has been suspended or revoked.

**Sec. 7.**

- (a) The medical use of marihuana is allowed under **this act** to the extent that it is carried out in accordance with the provisions of this act.
- (b) This act shall not permit any person to do any of the following:
  - (1) undertake any task **while engaged in the medical use of marihuana**, when doing so would constitute negligence or professional malpractice, **or undertake any action that harms another person, or create a situation that could potentially harm another person.**

**Sec. 7.**

- (a) The medical use of marihuana is allowed under state law to the extent that it is carried out in accordance with the provisions of this act.
- (b) This act shall not permit any person to do any of the following:
  - (1) Undertake any task under the influence of marihuana, when doing so would constitute negligence or professional malpractice.

## Suggested Changes to the Medical Marihuana Law

- (2) engage in the medical use of marihuana:
    - (A) in a school bus;
    - (B) on the grounds of any **child care organization as defined in 1973 PA 116, MCL 722.222(1)(a), preschool, elementary or secondary school consisting of any of grades kindergarten through 12, or institution of higher EDUCATION;** or
    - (C) in any correctional facility.
  - (3) smoke marihuana:
    - (A) on any form of public transportation; or
    - (B) in any public place.
  - (4) Operate, navigate, or be in actual physical control of any motor vehicle, aircraft, or motorboat, **if the person has in his or her body any amount of marihuana.**
  - (5) Use marihuana if that person does not have a debilitating medical condition.
  - (6) **Cultivate or keep marihuana plants in a facility at a location that is in violation of a local zoning ordinance.**
- (c) Nothing in this act shall be construed to require **any program or entity to reimburse a person for costs associated with the medical use of marihuana, including:**
- (1) A government medical assistance program;
  - (2) **a for-profit or non-profit health insurer, or other entity providing a plan of health insurance, health benefits, or health services;**
  - (3) **A health maintenance organization or similar entity operating pursuant to Chapter 35 of the Insurance Code of 1956, 1956 PA 218, MCL 500.100 to 500.8302;**
  - (4) **A health care corporation operating pursuant to the nonprofit health care corporation reform act of 1980, 1980 PA 350, MCL 550.1101 to 550.1704;**
  - (5) **A multiple employer welfare arrangement operating pursuant to Chapter 70 of the Insurance Code of 1956, 1956 PA 218, MCL 500.100 to 500.8302; or**
  - (6) **Any other insurer as defined in the Insurance Code of 1956, 1956 PA 218, MCL 500.100 to 500.8302.**
  - (7) An employer to accommodate the ingestion of marihuana in any workplace or any **employee PERSON** working while **engaged in the medical use of marihuana.**

## Current Medical Marihuana Law

- (2) Possess marihuana, or otherwise engage in the medical use of marihuana:
    - (A) in a school bus;
    - (B) on the grounds of any preschool or primary or secondary school; or
    - (C) in any correctional facility.
  - (3) Smoke marihuana:
    - (A) on any form of public transportation; or
    - (B) in any public place.
  - (4) Operate, navigate, or be in actual physical control of any motor vehicle, aircraft, or motorboat while under the influence of marihuana.
  - (5) Use marihuana if that person does not have a serious or debilitating medical condition.
- (c) Nothing in this act shall be construed to require:
- (1) A government medical assistance program or commercial or non-profit health insurer to reimburse a person for costs associated with the medical use of marihuana.
  - (2) An employer to accommodate the ingestion of marihuana in any workplace or any employee working while under the influence of marihuana.

## Suggested Changes to the Medical Marihuana Law

- (d) Fraudulent representation to a law enforcement official of any fact or circumstance relating to the medical use of marihuana to avoid arrest or prosecution shall be punishable by a fine of \$500.00, which shall be in addition to any other penalties that may apply for making a false statement or for the use of marihuana other than use undertaken pursuant to this act.
- (e) All other acts and parts of acts inconsistent with this act do not apply to the medical use of marihuana as provided for by this act.

## Current Medical Marihuana Law

- (d) Fraudulent representation to a law enforcement official of any fact or circumstance relating to the medical use of marihuana to avoid arrest or prosecution shall be punishable by a fine of \$500.00, which shall be in addition to any other penalties that may apply for making a false statement or for the use of marihuana other than use undertaken pursuant to this act.
- (e) All other acts and parts of acts inconsistent with this act do not apply to the medical use of marihuana as provided for by this act.

### Sec. 8.

- (a) Except as provided in section 7, a patient and a patient's primary caregiver, if any, may assert the medical purpose for using marihuana as a defense to any prosecution involving marihuana, and this defense shall be presumed valid where the evidence shows that:
  - (1) A physician has stated that, in the physician's professional opinion, after having completed a full assessment of the patient's medical history and current medical condition made in the course of a bona fide physician-patient relationship, the patient is likely to receive therapeutic or palliative benefit from the medical use of marihuana to treat or alleviate the patient's serious or debilitating medical condition or symptoms of the patient's serious or debilitating medical condition;
  - (2) The patient and the patient's primary caregiver, if any, were collectively in possession of a quantity of marihuana that was not more than was reasonably necessary to ensure the uninterrupted availability of marihuana for the purpose of treating or alleviating the patient's serious or debilitating medical condition or symptoms of the patient's serious or debilitating medical condition; and
  - (3) The patient and the patient's primary caregiver, if any, were engaged in the acquisition, possession, cultivation, manufacture, use, delivery, transfer, or transportation of marihuana or paraphernalia relating to the use of marihuana to treat or alleviate the patient's serious or debilitating medical condition or symptoms of the patient's serious or debilitating medical condition.
- (b) A person may assert the medical purpose for using marihuana in a motion to dismiss, and the charges

## Suggested Changes to the Medical Marihuana Law

Sec. 9. If the department **is unable** to issue a valid registry identification card in response to a valid application or renewal submitted pursuant to this act within 20 days of its submission, the registry identification card shall be deemed granted **for up to 120 days**, and a copy of the registry identification application or renewal shall be deemed a valid registry identification card **during this period. If during the 120 days following 20 days after submission of the valid application or renewal, the department determines that the application or renewal does not meet the requirements of this act, the department shall deny the application or renewal, and shall not issue a registry identification card as provided in the department's rules promulgated under this act.**

Sec. 10. Any section of this act being held invalid as to any person or circumstances shall not affect the application of any other section of this act that can be given full effect without the invalid section or application.

## Current Medical Marihuana Law

shall be dismissed following an evidentiary hearing where the person shows the elements listed in subsection (a).

- (c) If a patient or a patient's primary caregiver demonstrates the patient's medical purpose for using marihuana pursuant to this section, the patient and the patient's primary caregiver shall not be subject to the following for the patient's medical use of marihuana:
  - (1) disciplinary action by a business or occupational or professional licensing board or bureau; or
  - (2) forfeiture of any interest in or right to property.

Sec. 9.

- (a) If the department fails to adopt rules to implement this act within 120 days of the effective date of this act, a qualifying patient may commence an action in the circuit court for the county of Ingham to compel the department to perform the actions mandated pursuant to the provisions of this act.
- (b) If the department fails to issue a valid registry identification card in response to a valid application or renewal submitted pursuant to this act within 20 days of its submission, the registry identification card shall be deemed granted, and a copy of the registry identification application or renewal shall be deemed a valid registry identification card.
- (c) If at any time after the 140 days following the effective date of this act the department is not accepting applications, including if it has not created rules allowing qualifying patients to submit applications, a notarized statement by a qualifying patient containing the information required in an application, pursuant to section 6(a)(3)-(6) together with a written certification, shall be deemed a valid registry identification card.

Sec. 10. Any section of this act being held invalid as to any person or circumstances shall not affect the application of any other section of this act that can be given full effect without the invalid section or application.







The medical ethics series balancing risk and access.

## Use/Dependence of Smoked Cannabis: drug interactions with marijuana

Bill Morrone, DO, ACOFP ASAM DAAPM

Synergy Medical Education Alliance  
Central Michigan University, Saginaw, MI  
Deputy Medical Examiner – Bay Co.



## Data and Opinions from:

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Central Michigan University College of Medicine (CMED)  
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National Education Program Chair – **AOAAM**  
President Elect - **MAOFF**

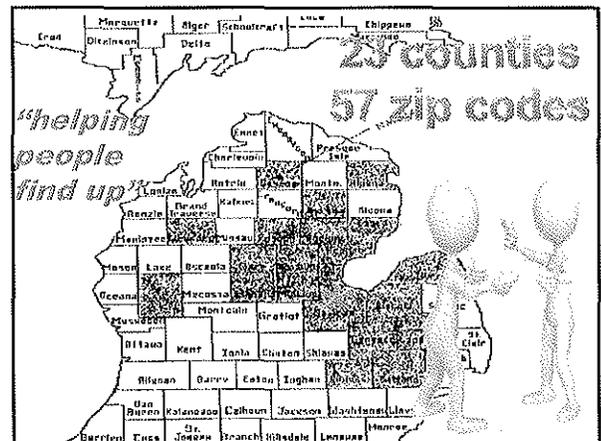
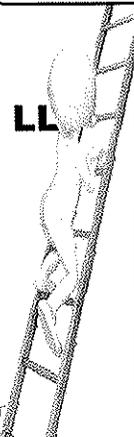
Examples from the Michigan Marijuana Experience

## Recovery Pathways, LL

989.928.3566

"helping people find up"

Behavioral Health Services  
717 East Midland Street  
Bay City, Michigan 48706  
RecoveryPathways@gmail.com

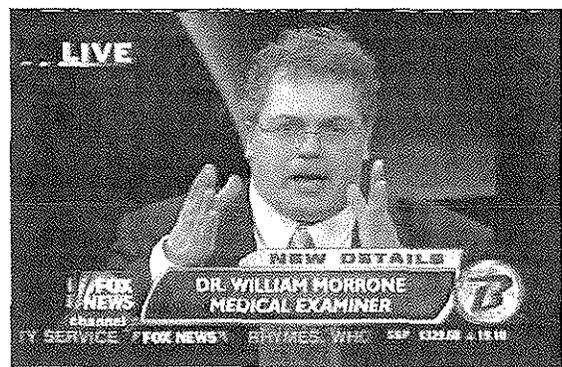


## Who is speaking?

- ACOFP board certified *primary care physician*
- Family Medicine educator (Synergy Medical)
- Consultant appointment to *Dept. of Psychiatry*
- Credentials in *Pain (AAPM)* and *Addiction (ASAM)*
- Credentials in *Forensics/Deputy Med Examiner*
- Armed Forces Institute of Pathology (AFIP)
- MS *Tox/Pharm* U. Missouri at KC/School of Pharm
- Active *pain consultant & Hospice Director*
- Activist, advocate & *addictionologist*



I have been to the dark side.



Purpose of this curriculum and disclaimer

Curriculum includes the **core information** for the evaluation of patient risk for *cannabis*. Treatment decisions should be made based on the individual patient, the level of risk and available resources.

Standard of care constantly evolves and this lecture reviews current status.

Physicians who use *cannabis* are responsible for their own decisions. Dr. Morrone does not assume any patient care responsibilities.



## Opine, Disclosure & Conflict of Interest



Dr. Morrone has been a teaching advocate for Rickett Benkiser (Suboxone, Frank's "Red Hot" (Louisiana) cayenne pepper sauce & French's Mustard

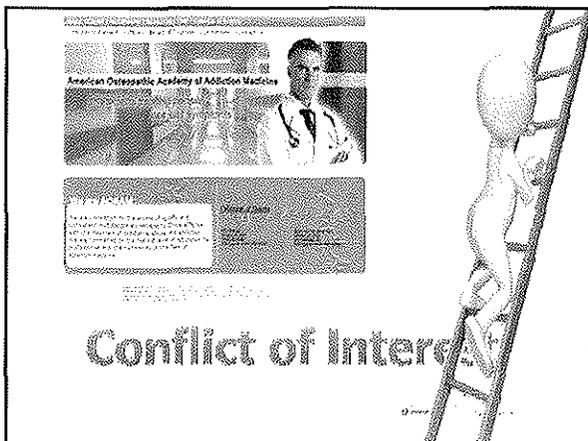


## Product Bias

## Critical Thinking

- **Critical thinking** refers to higher-order thinking that questions assumptions.
- It is a way of **deciding whether a claim is true, false, or sometimes true and sometimes false, or partly true and partly false.** Origins are traced in Western thought to the Socratic method of Ancient Greece.
- **Critical thinking** is an important component of being a professional.

CMU  
CENTRAL MICHIGAN  
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## Conflict of Interest

## WARNING

- Data neither *promote* nor *oppose* medical cannabis.
- Data reflect **public record** about cannabis in the U.S. Canada, Europe and Asia.
- Information in no way reflect the opinions of MOA, **Synergy Medical Education Alliance-CMED**, Hospice of Michigan, MSMS, MAOFP or MDCH.



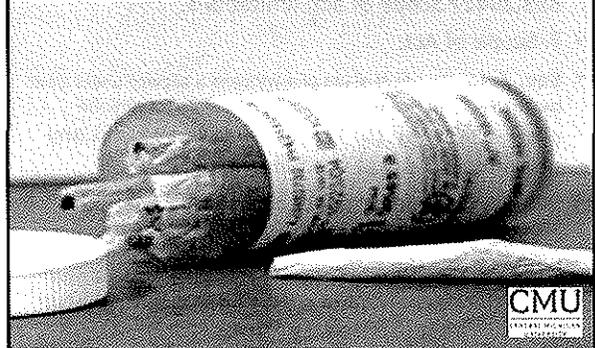
## Goals/objectives

Drugs that may have interactions with cannabis:

- Benzodiazepines
- Fluoroquinolones and Azithromycin
- Warfarin
- Albuterol and Anticholinergics
- TCA's and SSRI
- **Opioids** \* (SPECIAL EMPHASIS IN THIS) \*
- Global physiology and Pregnancy Info
- Assorted politics, facts, opinion and trivia

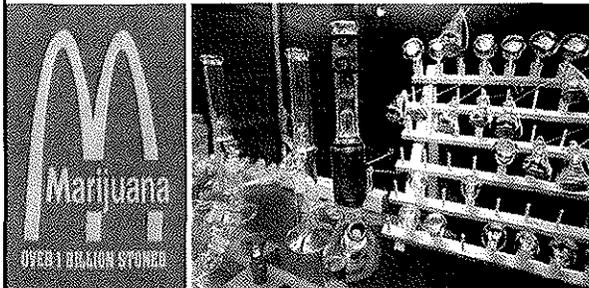
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## Public pressure to digest easy sound bites



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## CANNABIS IS TOO COMPLEX TO BE EASY SOUND BITES Pro or Con



## American College of Physicians, 2008

- ACP stressed that it “shares the concerns expressed by some about **state ballot initiatives or legislation that can undermine the federal regulatory structure:**
- For safety
- For efficacy
- & of new drugs before such drugs can be approved for therapeutic use.”

Michigan marijuana vote was not honest and marijuana guidelines must have QA



Doctors look for Laws? Which one? Why are they important? What about changes?

- Federal law (CFR: Code of Fed. Regulations)
- State law is **CONFLICTED**
- Standard of care
- DEA
- FDA



• **MICHIGAN MEDICAL MARIHUANA ACT**

Initiated Law 1 of 2008

**333.26427** Scope of act; limitations.

- 7. Scope of Act.
- **Sec. 7. (a)** The medical use of marihuana is allowed under state law to the extent that it is carried out in accordance with the provisions of this act. **(b)** This act shall not permit any person to do any of the following:
- **(4) Operate, navigate, or be in actual physical control of any motor vehicle, aircraft, or motorboat while under the influence of marihuana.**

Honest data analysis for public health is forbidden.

**Impaired: by Prescription Drugs**

- The Michigan Department of Community Health (MDCH) has **summarily suspended the registered nurse license** of XXXX, due to her **misdemeanor convictions in the 65-A Judicial District Court**, Clinton County, Michigan.
- On August 8, 2003, XXXX was **convicted of Impaired Driving by Use of a Prescription Drug**. XXXX was ordered to complete Alcohol Highway Safety Education, attend a Victims Impact Panel, and to pay fines, costs, and fees totaling \$1,130.00.

**"Bad Laws" are no accident**

- There is no equality in judging people. The law clearly says **"not permit any person to do any of the following:**
- **(4) Operate, navigate, or be in actual physical control of any motor vehicle, aircraft, or motorboat while under the influence of marihuana."**

**Everybody smoking marijuana is still driving.**



**Alcohol vs Cannabis MVA Toxicology**

- 38,000-40,000 fatal auto accidents per year
- 16,000-25,000 (40-62%) fatal auto accidents/yr involve alcohol and ~60% of all ER admissions.
- **3,600 (9.1%) fatal auto accidents/yr involve marijuana. (16% nonfatal auto accidents).**

<http://www.medicalmarijuanablog.com/2009/03/docs-marijuana-kill-people.html>

You are told marijuana never causes accidents.



**Columbia University**

Mailman School of Public Health

- **8 of 9 studies found that drivers who use marijuana are significantly more likely to be involved in crashes than drivers who do not.**
- analysis indicates that 28% of fatally injured drivers and more than 11% of the general driver population tested positive for non-alcohol drugs, with marijuana being the most commonly detected substance.

**Mailman School of Public Health**

- Estimated odds ratios relating marijuana use to crash risk reported in these studies ranged from 0.85 to 7.16.
- **Pooled analysis based on the random-effects model yielded a summary odds ratio of 2.66**
- (95% confidence interval: 2.07, 3.41).

## Mailman School of Public Health

- Analysis indicated that the heightened risk of crash involvement associated with marijuana use persisted after adjustment for confounding variables.
- the **risk of crash involvement increased in a dose-response fashion with the concentration of 11-nor-9-carboxy-delta-9-tetrahydrocannabinol detected in the urine** and frequency of self-reported marijuana use.

## Cannabinoids and HCV

- Marijuana may help people with **HCV** stay on treatment, leading to improved outcomes.
- Treatment for hepatitis C virus (**HCV**), a combination of **interferon plus ribavirin** taken for > six months.
- Side effects such as flu-like symptoms, insomnia, **nausea**, loss of appetite, and depression, cause patients to stop treatment.

*European Journal of Gastroenterology and Hepatology (2006)*

## Cannabinoids and cancer pain

- In chronic pain – **did demonstrate analgesia** oral cannabinoid (THC) **with cancer pain**
  - Noyes et al (*Clin Pharm Therap*) dbpc\*
  - 5mg-20mg with results at 15mg & 20mg
  - ZERO nausea and vomiting
  - **14 % experienced significant ANXIETY**
- chronic pain thresholds by cannabinoid, THC, 10-20mg translate to 60-120 mg codeine.
  - Noyes et al (*Clin Pharm Therap*) single dose study



# LARA

Department of Licensing and Regulatory Affairs

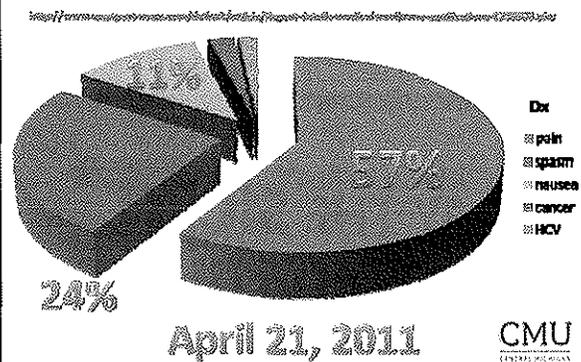
### Michigan Medical Marijuana Program

The Michigan Medical Marijuana Program (MMMP) is a state registry program within the Bureau of Health Professions at the Michigan Department of Licensing and Regulatory Affairs. The program will administer the Michigan Medical Marijuana Act as approved by Michigan voters on November 4, 2008. **The program will implement the statutory tenets of this act in such a manner that protects the public and assures the confidentiality of its participants.**

## The michigan medical marihuana act (MMMA) creates the michigan medical marihuana (MMMP) program

- **GOOD NEWS:** People with cancer & HCV now have an opportunity for marijuana without breaking the law.
- **BAD NEWS:** **LESS** than 3% of all medical marijuana certificates go to cancer and HCV patients and there may be a **profound or significant amount of fraud** in the system.

## What are the top 5 Dx @MMMP?



## What does MMMP offer?

- Purpose of registry
- Registration process
- **Physician venue for certification of patient**
- Role of caregiver
- **Possession limits**
- Review panel
- Confidentiality
- **Regulatory concerns - health professionals ?**
- Employer concerns ?

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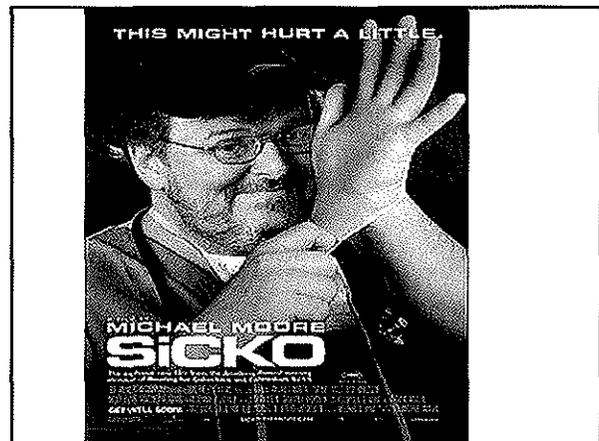
## What doesn't MMMP offer Physicians?

- **No clinical guidance or risk assessment.**
- **No evidenced based medicine.**
- **No physician experience in MMMP.**
- **No pain equivalence to opiates.**
- **No guidance on addiction potential.**

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## What voice guides honest cannabis?

- President Barack Obama?
- Joe Biden? **Michael Moore?**
- Dr. Sanjay Gupta?
- Senator Debbie Stabenow (MI)?
- **France? Amsterdam? Cuba?**
- Gov. Arnold?
- Senator Nancy Pelosi (CA)?
- Entertainer Rush Limbaugh?



Michael Moore took us to CUBA to show the **US** is bad and CUBA is good.

<http://www.michaelmoore.com/sicko/trailer/index.php>

**PLAY THE SICKO  
VIDEO CLIP HERE.**

## WHAT ABOUT CUBA?

### Cuba Makes War On Weed

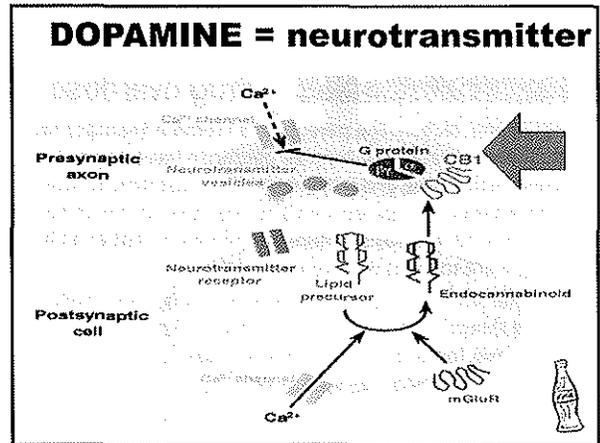
Castro Government Burns 1,300 Pounds Of Marijuana As Reporters Watch

<http://www.cbsnews.com/stories/2005/02/23/world/main676125.shtml>

(CBS) This story was written by CBS News Producer Portia Siegelbaum Over 1,300 pounds of marijuana seized by the Cuban Border Guard went up in smoke in a steel plant furnace as some two dozen international journalists looked on.

Stepping up efforts to publicize its offensive against illegal drug trafficking in the region, the Cuban Government invited the media to fly to Holguin province, 457 miles east of Havana and smack in the middle of the most common drug routes, according to Lt. Col. Miguel Guilarte, Cuban border guard's anti-drug czar .....etc

- 1 France 2 Italy 3 San Marino 4 Andorra 5 Malta 6 Singapore 7 Spain 8 Oman 9 Austria 10 Japan 11 Norway 12 Portugal 13 Monaco 14 Greece 15 Iceland 16 Luxembourg 17 Netherlands
- **18 United Kingdom** 19 Ireland 20 Switzerland 21 Belgium 22 Colombia 23 Sweden 24 Cyprus 25 Germany 26 Saudi Arabia 27 United Arab Emirates 28 Israel 29 Morocco
- **30 Canada** 31 Finland 32 Australia 33 Chile 34 Denmark 35 Dominica 36 Costa Rica
- **37 United States of America** 38 Slovenia 39 Cuba 40 Brunei 41 New Zealand 42 Bahrain 43 Croatia 44 Qatar 45 Kuwait 46 Barbados 47 Thailand 48 Czech Republic 49 Malaysia 50 Poland
- 51 Dominican Republic 52 Tunisia 53 Jamaica 54 Venezuela 55 Albania 56 Seychelles 57 Paraguay 58 South Korea 59 Senegal 60 Philippines 61 Mexico 62 Slovakia 63 Egypt 64 Kazakhstan 65 Uruguay 66 Hungary 67 Trinidad and Tobago 68 Saint Lucia 69 Belize 70 Turkey 71 Nicaragua 72 Belarus 73 Lithuania 74 Saint Vincent and the Grenadines
- 75 Argentina 76 Sri Lanka 77 Estonia 78 Guatemala 79 Ukraine 80 Solomon Islands 81 Algeria 82 Palau 83 Jordan 84 Mauritius 85 Grenada 86 Antigua and Barbuda 87 Libya 88 Bangladesh 89 Macedonia 90 Bosnia-Herzegovina 91 Lebanon 92 Indonesia 93 Iran 94 Bahamas 95 Panama 96 Fiji 97 Benin 98 Nauru 99 Romania 100 Saint Kitts and Nevis



- Cannabinoid receptors in the brain are not SSRI/serotonin-mediated. Marijuana can, however, affect **dopamine**, which influences mood.
- SSRIs: Case report of severe mania/psychosis on fluoxetine (**Luvox**®) after smoking marijuana.
- Tricyclics — "Additive **tachycardia**," or accelerated heartbeat. 7 case of psychosis in UK.
- Lithium: no reported interactions

<http://www.usatoday.com/news/health/spotlight/2001-01-24-tyson.htm>  
<http://www.nhs.uk/chaq/Pages/865.aspx?CategoryID=73&SubCategoryID=103>

### Case study: adverse effects of smoking marijuana while receiving tricyclic antidepressants.

#### *Journal of the American Academy of Child and Adolescent Psychiatry*

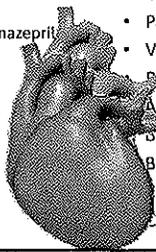
(1997) - Wilens, Timothy E.; Biederman, Joseph; Spencer, Thomas J.

- Increasingly, children and adolescents are being treated for underlying psychopathology commonly associated with the psychoactive substance use disorders.
- Despite this apparent increase in using medication, little is known about the interaction of drugs of abuse with the psychotropic medications. Four cases of male adolescents aged 15 to 18 years being treated with a tricyclic antidepressant for attention-deficit hyperactivity disorder who manifested **transient cognitive changes, delirium, and tachycardia after smoking marijuana**.

### Marijuana smoke & THC increase HR

BP meds **INCREASE** Heart Rate (HR) + Decongestants **INCREASE** HR

- Coricidin D
- Hydralazine
- Digoxin
- Minoxidil and Benazepril
- Stadol
- Sudafed
- Theophylline
- Thyroid
- Uniphyl
- Tranxene
- Triaminic
- Phenteramine
- Bromotapp
- Catapres (clonidine)
- Parafon forte
- Vick's DayQuil
- Butorphanol tartate
- Allerest
- Belladonna
- Bell Phen Ergot S
- Lemastine (Tavist)
- Chlorpheniramine



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### Can you smoke marijuana after taking Concerta? = No.

- "Yeah, you're good. It's actually really good to grind it up and sprinkle it over your weed before you smoke. Concerta is probably the best thing you could've been prescribed! So toke up, man."
- "The problem I encountered was that it intensified my high (I know it doesn't sound like a problem), basically I couldn't be in public or it would be VERY OBVIOUS I was **inebriated and paranoia** was unavoidable."

[http://wiki.answers.com/Q/Can\\_you\\_smoke\\_marijuana\\_after\\_taking\\_Concerta\\_36mg#ixzz1P7egxUK5](http://wiki.answers.com/Q/Can_you_smoke_marijuana_after_taking_Concerta_36mg#ixzz1P7egxUK5)

[http://wiki.answers.com/Q/Can\\_you\\_smoke\\_marijuana\\_after\\_taking\\_Concerta\\_36mg#ixzz1P7dh56z8](http://wiki.answers.com/Q/Can_you_smoke_marijuana_after_taking_Concerta_36mg#ixzz1P7dh56z8)



## Marijuana/Adderall drug overdose

- **FREMONT, Neb.** -- The parents of a Fremont teenager said their son is recovering from an **overdose involving a prescription drug and marijuana**. Fremont High School officials told J.R.'s parents on Thursday that their son had been pulled from class. Mom and the teen's father, Keith Kelly, went to meet with administrators.
- "He started to crash, slurred speech, saying some really weird things." J.R. was taken to Fremont hospital, where **drug tests found high levels of Adderall** -- prescribed to people with ADHD -- **as well as marijuana**.

<http://www.ketv.com/news/14308286/detail.html#ixzz1POxsRESX>

## Post-ingestion of cannabis (hash) in young children (at 75min)

- **Obtundation**
- **Apea**
- **Bradycardia (70%) Tachycardia (30%)**
- **Hypotonia**
- **Opisthotonus**
- Supportive and symptomatic care of the airway and blood pressure. Intubate if needed.



## Cannabis in Pregnancy



## Cannabis in Pregnancy

- Cannabis is category **"C"**
  - Decreased Weight and Length
  - Epidemiology = no support for teratogenesis
  - **TREMORS** and **INCREASED startling** are reported in Infants **LESS THAN one week of age** whose mothers used cannabis during pregnancy.
  - NEONATAL ABSTINENCE SYNDROME?
  - Lower scores: verbal and learning @ 48 months
- Goldfrank's Toxicological Emergencies (2006) 8<sup>th</sup> Ed McGraw Hill page 1215-1216*

## Marijuana Warfarin

- Protein binding of delta-9-THC and metabolites is approximately 97%.
- 60% of THC binds to plasma lipoprotein.
- Remainder appears to bind to albumin.
- There is an inhibiting effect on CYP2C9. Inhibition of S-warfarin metabolism is clinically significant because of its higher potency than the R-warfarin enantiomer.
- **The interaction between warfarin and marijuana is the inhibition of warfarin metabolism.**

## Can marijuana use trigger psychotic illnesses like schizophrenia?

- **Yes.**
- **When someone starts using marijuana in their teens (heavily), that marijuana can trigger early onset of psychotic illnesses.**
- **Approximately 15% will continue to have psychotic symptoms even after they stop using.**

<http://www.heretohelp.bc.ca/publications/factsheets/cannabis-psychosis>



**Cannabis use can cause drug-induced psychosis, leading to symptoms such as visual hallucinations.**

- Cannabis use can worsen symptoms associated with psychotic illnesses:

**delusions  
hallucinations**

[http://hnb.dhs.vic.gov.au/dsonline/dsarticles.nsf/pages/Cannabis\\_and\\_psychosis?OpenDocument](http://hnb.dhs.vic.gov.au/dsonline/dsarticles.nsf/pages/Cannabis_and_psychosis?OpenDocument)



**Cannabis and Schizophrenia**  
S. Andreasson, P. Allebeck and U. Rydberg  
**Acta Psychiatrica Scandinavica**  
Volume 79, Issue 5,  
pages 505–510,  
May 1989

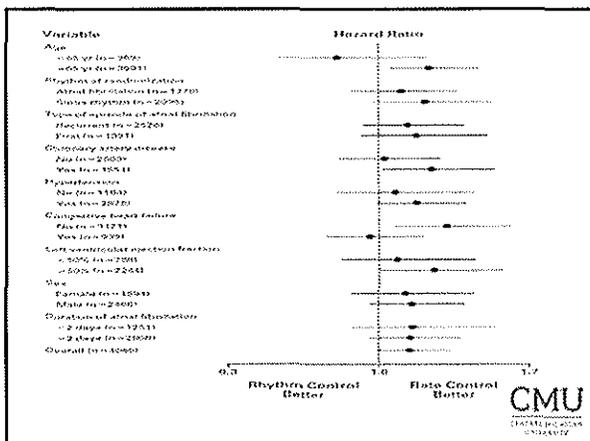


- The relative risk of schizophrenia among cannabis users in Stockholm Country was 4.1 (95% confidence interval 1.8–9.3) compared with nonusers. No evidence was found of a significant role for any other narcotic drug in the emergence of schizophrenia among cannabis abusers. Further, there was no evidence of mental disorder prior to cannabis abuse, even if the role of personality traits could not be fully assessed.
- A different pattern of mental deterioration was found among cannabis users, with a more abrupt onset of schizophrenic symptoms than nonusers. There was no major difference between users and nonusers in heredity for schizophrenia or other mental disorder.
- Negative social background factors were more common among cannabis abusers. Although the number of cases in this study was small, the findings support the hypothesis that cannabis does play an etiological role in schizophrenia.

**Relative Risk**

- The relative risk of schizophrenia among cannabis users in Stockholm Country was 4.1

**4.1**



**Low dose Cannabis**

- Changes at low doses (five (5) mg THC) include euphoria, **restlessness and mild mental confusion.**
- Altered sensory perception of the external environment.
- Overestimation or slowing of elapsed time and expansion of space, enhanced senses and hunger.

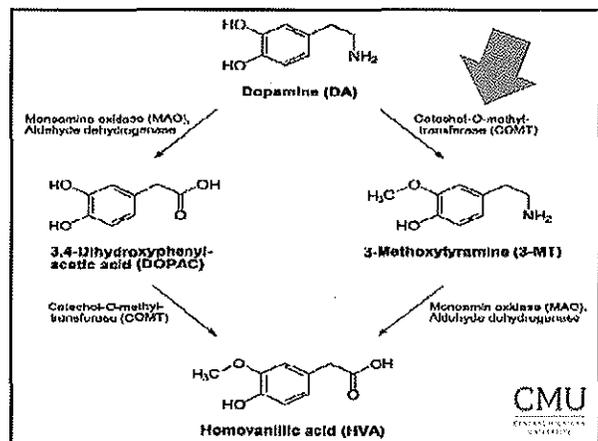
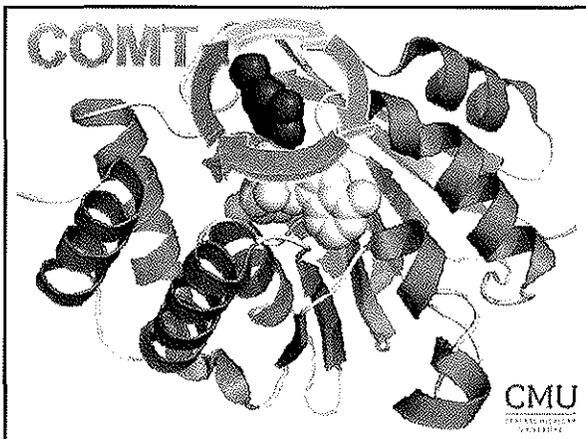
## Moderate Dose Cannabis

- Disturbed associations, dulled attention, vivid visual imagery, fixed ideas, rapidly changing positive and negative emotions, fragmented thought, flight of ideas, impaired memory\* altered sense of identity, increased suggestibility and a feeling of enhanced insight.
- At higher doses, interpersonal relations are dulled, less social and more withdrawn.

\* USE BENZO versus USE MOOD STABILIZER

## Genetic Variance

- Caspi et al 2005, highlights interactions between genetics, drug exposure, and age of use in developing a mental disorder.
- The COMT gene produces an enzyme that regulates dopamine, a brain chemical involved in **schizophrenia**. COMT is in two forms: "Met" and "Val."



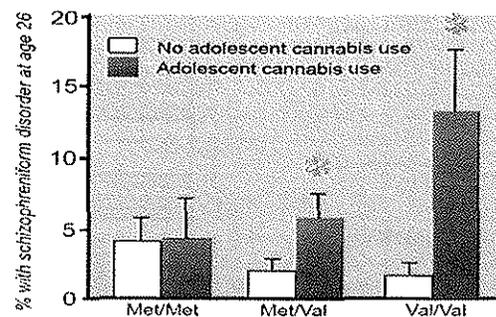
## Genetic Variance

Individuals with one or two copies of the "Val" variant have **higher risk of developing psychosis and schizophrenic-type disorders if they used cannabis** in adolescence.

adapted Caspi et al., *Biol. Psych* May 2005



Genetic variation in COMT influences the harmful effects of abused drugs



adapted from Caspi et al. *Biol. Psych.* May 2005.

## Cannabis Agitation, Cannabis Anxiety & Cannabis Psychotic Episodes

### Treatment is:

- quiet reassurance
- Acute benzodiazepines: **lorazepam** 1-2 mg IM or 5-10 mg diazepam IV
- **Haloperidol** 0.5-2 mg or ziprasidone (Geodon®) 5-20 mg PO as needed.
- CO-INGESTION with cocaine, alcohol or opiate require treatment as indicated

Goldfrank's Toxicological Emergencies (2006) 8<sup>th</sup> Ed McGraw Hill

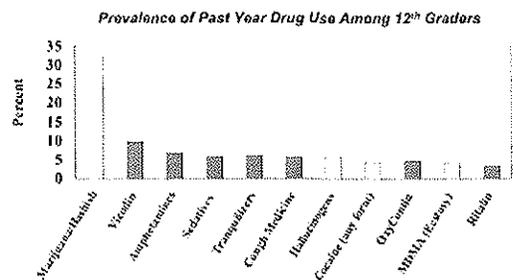
## Marijuana – Xanax – Valium

- Marijuana isn't likely to kill but **Xanax** might.
- If you smoked enough marijuana to lose track of how much **Xanax** you had taken you'd overdose.
- Do not mix benzodiazepines with cannabis
- **Marijuana smokers report anxiety (restlessness) and frequently seek benzodiazepines from providers.**

Using lorazepam in ED (controlled environment) is not the same as prescribing alprazolam monthly.

**CANNABIS USE IS NOT WITHOUT RISK IN SOCIETY AND THE GREATEST RISK IS ALWAYS IN THE YOUTH**

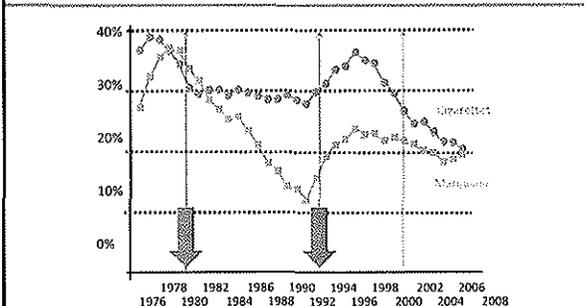
## Prescription/Over-the-Counter Drugs Account for 7 Out of 11 of the Most Frequently Abused Drugs



In 2008, 15.4% of 12<sup>th</sup> graders reported abusing prescription drugs within the past year.

MA 2008, University of Michigan 2008 Monitoring the Future Study

## Percentage of U.S. 12<sup>th</sup> Grade Students Reporting Past Month Use of Cigarettes and Marijuana, 1975 to 2008

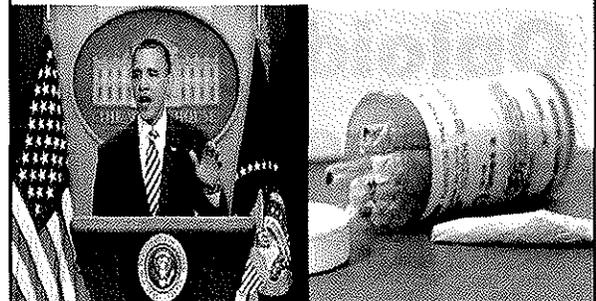


CESAR FAX January 19, 2009, Vol. 18, Issue 2. Adapted by CESAR from University of Michigan, "Trends in 30 Day Prevalence of Use of Various Drugs in Grades 8, 10, and 12," Monitoring the Future Study, 2008.

## 2 options in cannabis policy

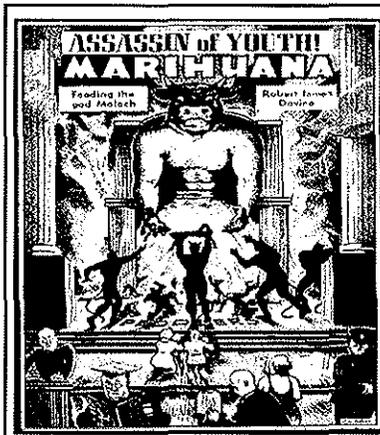
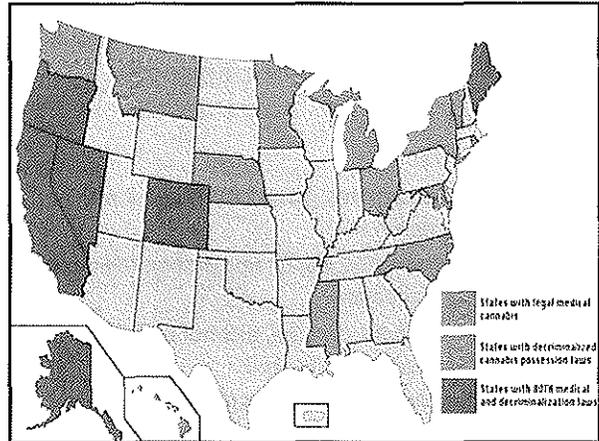
**DECriminalIZATION**

**MEDICALIZATION**



## Critical thinking rejects the 2 cannabis option argument

- Recognize problems
- Understand the importance of prioritization
- Gather information
- Recognize unstated assumptions and values
- Comprehend and use language with accuracy, clarity, and discernment
- Interpret data, appraise evidence and evaluate arguments
- Recognize the existence (or non-existence) of logic
- Draw warranted conclusions
- Test the conclusions
- Reconstruct beliefs on wider experience and render accurate judgments



Groups have transformed the debate from decriminalizing drug use to one of compassion and care for people with serious diseases.

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- Pro-marijuana groups list **AAFP** as endorsing marijuana use. No references are ever cited.
- Actual quote - "The American Academy of Family Physicians (**AAFP**) opposes the use of marijuana except under medical supervision and control for specific medical indications." (1989-2007 revised) **official AAFP web** : <http://www.aafp.org/online/en/home/policy/policies/m/marijuana.html>
- Michigan Proposition 1 was **not written** for physicians to supervise and control medical marijuana. It grants registration venue for marijuana use without an established relationship involving physician supervision.



## What about Opioids & smoked cannabis?

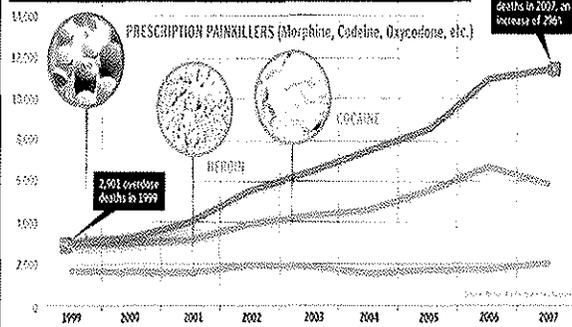


## A closer look at the problem

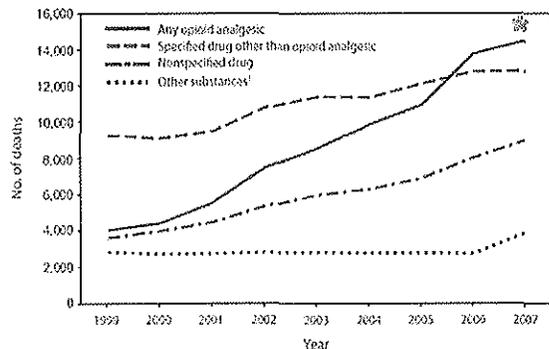
Prescription drug abuse in Michigan and the nation continues to climb.

Unintentional overdose deaths from prescription painkillers is climbing faster than cocaine and heroin in the U.S.

11,499 overdose deaths in 2007, an increase of 26%

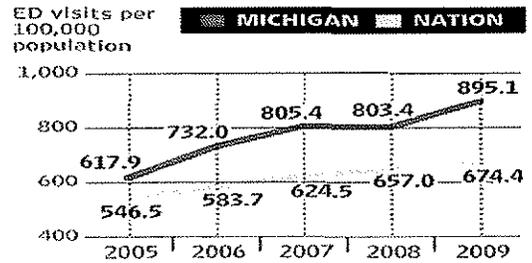


**2010 MMWR Deaths with poisoning as the underlying cause, the following ICD-10 (August 20, 2010 / 59(32);1026)**



**Michigan versus the nation**

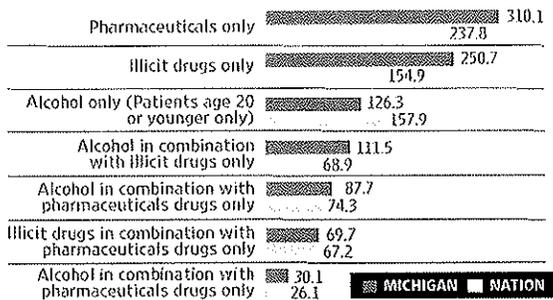
**Emergency department (ED) visits involving drug misuse or abuse — 2005-09**



Sources: U.S. Department of Health and Human Services and Centers for Disease Control and Prevention

**Drug abuse in combination with other drugs**

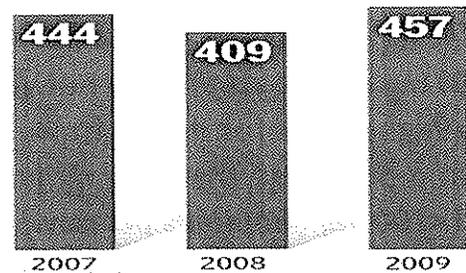
Rates of emergency department visits involving drug misuse or abuse. Michigan versus the nation, 2009



Source: 2008 SAMHSA Drug Abuse Warning Network (DAWN)

**Prescription overdose**

Michigan prescription drug overdose deaths 2007-09:



Sources: U.S. Department of Health and Human Services and Centers for Disease Control and Prevention

**Greater than 100 mg per day = risk**

- Patients of the Veterans Health Administration were studied between 2004 and 2008
- **750 deaths:** as overdose on opioids
- out of an estimated 1.8 million people treated.
- 4 for every 10,000 patients with a prescription.

<http://www.psych.med.umich.edu/newsroom/index.php/2011/04/high-pain-med-prescriptions-raise-risk-of-overdose/>



**Morphine-equivalent doses were calculated**

- opioid analgesics dispensed by VHA pharmacies.
- **codeine, morphine, oxycodone, hydrocodone, oxymorphone, and hydromorphone.**
- Methadone was not included in this analysis because of inconsistent morphine equivalency.
- Semisynthetic opioids not included because they are not used for pain in VHA (ie, buprenorphine)



## Marijuana & Opioids = increased risk

- VA noted an increased **death rate** due to **overdose** in individuals treated with **opioids**. *Opioid overdose decedents* were more likely to be:
  - middle-aged (40 y/o to 59 y/o = 81%)
  - White (83%) or Male (96%)
  - Dx w/chronic (78%) or acute (29%) pain
  - Dx w/**substance use disorders** (40%)
  - Dx w/other psychiatric diagnoses (66%)
  - less likely to have cancer (12%)



Characteristics of Veterans Health Administration Patients Receiving Opioid Therapy.

**Table 1. Characteristics of the Sample of Veterans Health Administration Patients Receiving Opioid Therapy**

Characteristic	No. (%)		P Value
	Opioid Overdose Decedents (n = 750)	All Others (n = 124,884)	
Age, y			
18-39	34 (4.5)	3,608 (2.9)	
40-49	243 (32.3)	27,707 (22.2)	
50-59	110 (14.7)	22,938 (18.4)	< .001
60-69	297 (39.6)	50,718 (40.6)	
70-79	30 (4.0)	2,925 (2.3)	
≥80	11 (1.5)	9,183 (7.3)	
Race			
Black	22 (2.9)	15,429 (12.3)	
White	629 (83.7)	110,925 (87.7)	< .001
Other	21 (2.8)	14,530 (11.6)	
Hispanic ethnicity	23 (3.1)	6,332 (5.1)	.15
Psychiatric disorders*			
Alcohol	31 (4.1)	3,712 (2.9)	< .001
Depressive disorder	105 (14.0)	12,728 (10.2)	< .001
Personality	50 (6.7)	11,229 (9.0)	< .001
Personality	20 (2.7)	3,720 (2.9)	.17
Substance use disorders	297 (39.6)	20,227 (16.2)	< .001
Other psychiatric disorders	264 (35.2)	15,105 (12.1)	< .001
Substance use disorders	120 (16.0)	8,120 (6.5)	< .001
Other psychiatric disorders	147 (19.6)	7,085 (5.6)	< .001
Cancer	12 (1.6)	12,327 (9.9)	< .001

Copyright © 2013 American Medical Association. All rights reserved. Bohnert, A. S. B. et al. JAMA 2013;305:1315-1321 JAMA

## NET- NET

Smoking marijuana\* and being on >100 mg of opioids per day put you at a higher risk for death from opioid overdose than no marijuana and <100 mg of opioids per day.

\* marijuana = substance abuse at VA

**\*[cannabis use disorders were included in the “substance use disorders” category]\***

- Personal email communication from Dr. Amy Bohnert at the University of Michigan (June 15, 2011) 2:28PM (1428) ET

<http://jama.ama-assn.org/content/305/13/1315.full>

## Nota Bene

- VA policy will **not punish** veterans **in the 16 states** where cannabis is legal if they test (+) cannabinoids and **they shouldn't punish anyone.**
- Michigan Court of Appeals has ruled that the Michigan Medical Marijuana law (prop 1) is **NOT RETROACTIVE.**

# Michigan Court Cases

## Cannabis Law 2011

## STATE OF MICHIGAN COURT OF APPEALS

### STATE OF MICHIGAN,

Plaintiff-Appellant

August 23, 2011, 9:00 a.m.

No. 301951

Isabella Circuit Court

**BRANDON MCQUEEN and MATTHEW TAYLOR,**  
d/b/a

**COMPASSIONATE APOTHECARY, LLC,**

Defendants-Appellees.

Before: MURRAY, P.J., and HOEKSTRA and STEPHENS, JJ.

Members, aided by the services of defendants, do not simply “deliver” or “transfer” marihuana to other members.

- Rather, the members/CA employees “deliver” or “transfer” the marihuana to other members for a price.
- A “sale” is “[t]he transfer of property or title for a price.” **Black’s Law Dictionary** (7th ed); see also MCL 440.2106(1) (a “sale,” as defined by the Uniform Commercial Code, MCL 440.1101 et seq., is “the passing of title from the seller to the buyer for a price”).
- Here, the marihuana that a member has placed in a CA locker is only delivered to another member if that member pays the purchase price for the marihuana.

• “We hold that defendants’ operation of CA is an enjoicable public nuisance. The operation of CA violates the PHC, which prohibits the possession and delivery of marihuana.”

3 Judge panel, August 23, 2011  
Michigan Court of Appeals

## Effects of Smoked Marijuana in Experimentally Induced Asthma

- AMERICAN REVIEW OF RESPIRATORY DISEASE,
- VOLUME 112, 1975
- DONALD P. TASHKIN, BERTRAND J. SHAPIRO, Y. ENOCH LEE, and CHARLES E. HARPER

### Tashkin’s 100% whole sentence

- “Although these findings appear to support the benefit ascribed to the use of cannabis in the last century for the treatment of bronchial asthma, they do not provide any direct evidence for a bronchodilator effect of marijuana during an acute asthmatic attack.”
- The entire sentence verbatim as taken from the author is completely contradictory to the “snip-it” used on the procannabis web site. This is what they do.

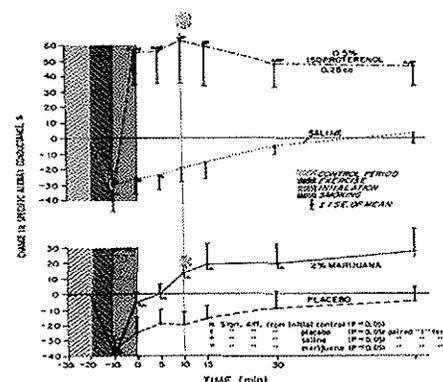


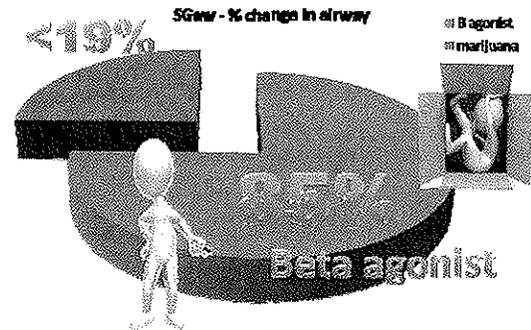
Fig. 3. Average per cent change with time in specific airway conductance (SGaw) from initial control values after smoking of 2 per cent marijuana and placebo, and after inhalation of 0.5% of 0.5 per cent isoproterenol and saline after exercise-induced bronchospasm on 0.72.

# Comparison

- The response to 1,250  $\mu$ g of Isoproterenol versus
- 2 percent marijuana (10 mg of Delta 9-THC),
- Revealed that Isoproterenol caused a significantly greater degree of bronchodilatation in the doses used.

- **Smoked marijuana is inferior to  $\beta$ -agonist treatment.**

## Percent change in specific airway conductance @ 5 min



## Percent change in specific airway conductance @ 10 min



## It is still smoke

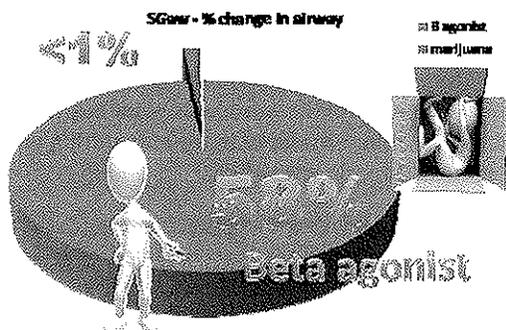
- Regardless of the THC content, the amount of tar inhaled by marijuana smokers and the level of carbon monoxide absorbed are three to five times greater than among tobacco smokers.
- Marijuana users are inhaling deeply, holding the smoke in the lungs and marijuana smoke is unfiltered.

<http://www.ideaconnection.com/solutions/558-Cannabis-abuse.html>

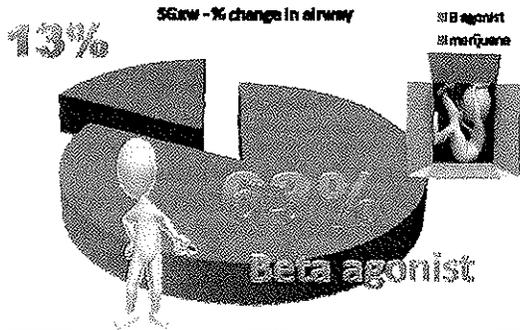
## Bronchodilation?

How inferior is smoked marijuana compared to BETA agonist therapy?

## Percent net change in specific airway conductance @ 5 min



### Percent net change in specific airway conductance @ 10 min



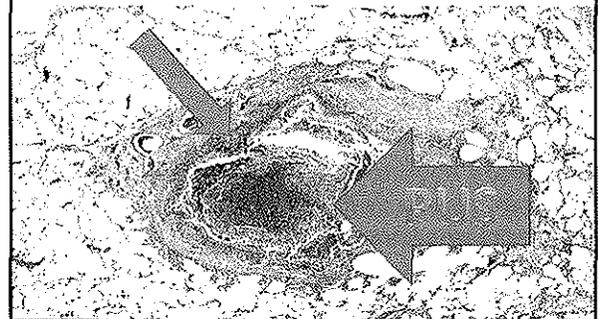
### EFFECTS OF MARIJUANA IN ASTHMA

- Bronchodilation after the **first 5 and 10 minutes is clinically meaningless** for acute asthma medication.
- Chronic marijuana smoking loses the mild to modest benefits seen acutely because of **tachyphylaxis**.

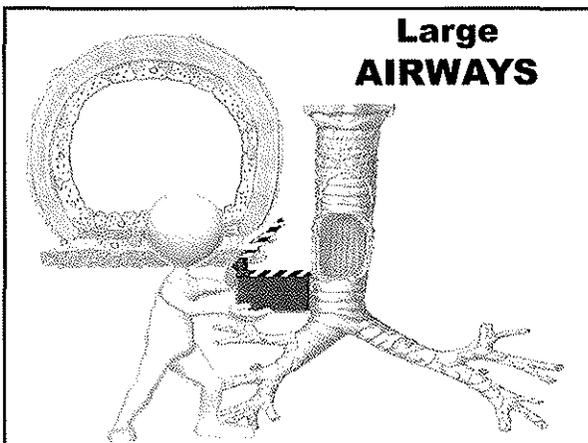
### EFFECTS OF MARIJUANA IN ASTHMA

- Aerosolization of an ethanol solution of Delta 9-THC using a Freon® propellant resulted in mean peak increase in SGaw of 88 % in 4 normal subjects, but **unwanted psychological** effects were not circumvented. (dysphoria)
- "Regardless of route of administration, Delta 9-THC does is not a suitable bronchodilator for therapeutic use because of its systemic **psychotoxic** effects." (psychotoxic)

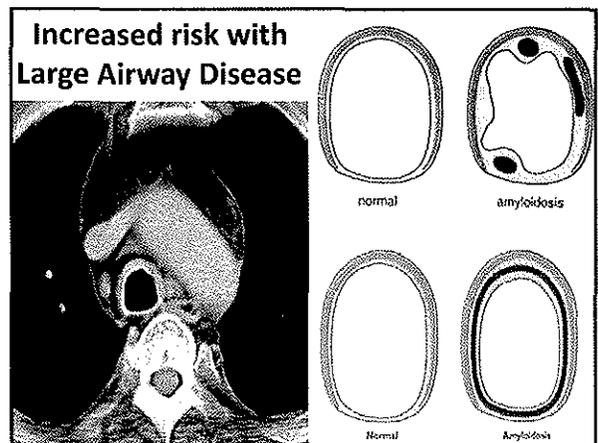
Large airways are damaged by chronic inflammation cartilage and smooth muscle are destroyed.



### Large AIRWAYS



### Increased risk with Large Airway Disease



## Particle Size (microns)

- Symbicort **6 - 12**
- Advair **12 - 25**
- Tobacco smoke **20 - 35**
- 3% Cannabis smoke **25 - 40**
  
- 10% - 12% Cannabis smoke **75 - 125**

## Alveolar Macrophages

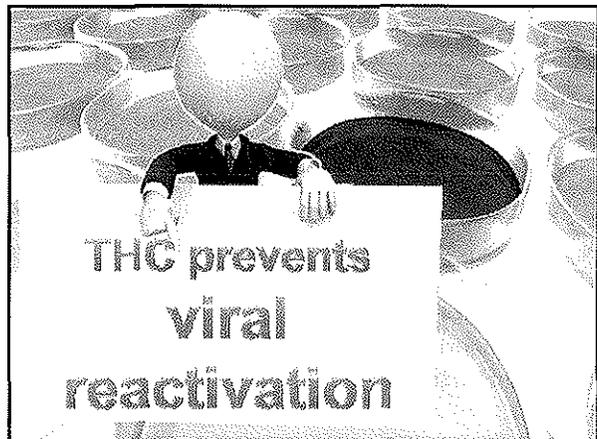
- There is an **increase in the number of alveolar macrophages** recovered from the lungs of smokers of marijuana, tobacco, or both compared with nonsmokers.

Among marijuana users, increases were independent of concomitant tobacco smoking, although smoking both marijuana and tobacco appeared additive.

- An **increase in the alveolar macrophage population represents an inflammatory response to lung injury**, these findings imply an adverse effect of marijuana smoking on the lungs

## Alveolar Macrophages

- Sherman has recently found notable differences in stimulated superoxide anion and found an **impairment in microbicidal activity of alveolar macrophages** from both tobacco and marijuana smokers.
- Due to a smoking-related defect in nonoxidative defense mechanisms.
- **AZITHROMYCIN** needs macrophages and will be less efficacious in marijuana smokers.



## THC / Viral Cell Culture

- Dr. Peter Medveczky, U of South Florida found reactivation was **prevented if infected cells were grown in THC**. Cultured cells infected with mouse gamma herpes virus die as virus reactivates, evidence that THC prevents viral reactivation.
  
- Medveczky also stresses THC can act as an immunosuppressant. **Smoking marijuana could cause more harm than good** to patients infected with these viruses, who often have weakened immune systems already.

15 September 2004 - [www.biomedcentral.com](http://www.biomedcentral.com)

## Summary

- Benzodiazepine – additive sedation risk
- Fluoroquinolones – CNS effects reported (Cipro)
- Azithromycin – lack of efficacy; no monotherapy
- Warfarin – extended bleeding reported
- Always add albuterol to anticholinergics
- TCA's completely avoid = reported (30 yrs)
- Opioid + marijuana = increased overdose deaths
- Global increase in heart rate reported (40 yrs)
- ADHD stimulants/sympathomimetics = bad

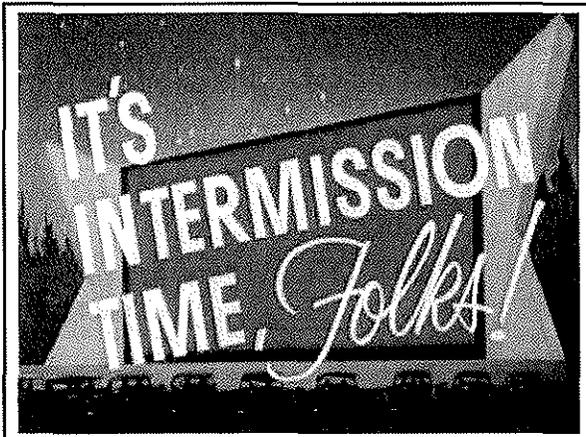
## Avoid Cannabis in High Risk Groups w/ non-terminal diagnosis

- **Cardiovascular disease**
- **Respiratory disease (COPD, asthma etc.)**
- **Schizophrenia, depression, other  $\Psi$**
- **Dependence on other substances**

Hart, Carl L., (October 28, 2008) ASAM Review Course in Addiction Medicine, Chicago, Illinois.

## AMA, 2009

- AMA has stressed "the patchwork of state-based systems that have been established for 'medical marijuana' is woefully inadequate in establishing even rudimentary safeguards that normally would be applied to the appropriate clinical use of psychoactive substances.



## THE END

- **SLIDES FOLLOWING AFTER THIS NOTICE AS DESIGNATED TO ANSWER QUESTIONS ONLY.**
- **EVERY EFFORT HAS BEEN MADE FOR A VERBAL NOTATION OF OPINION.**

## BBC VS WASHINGTON POST

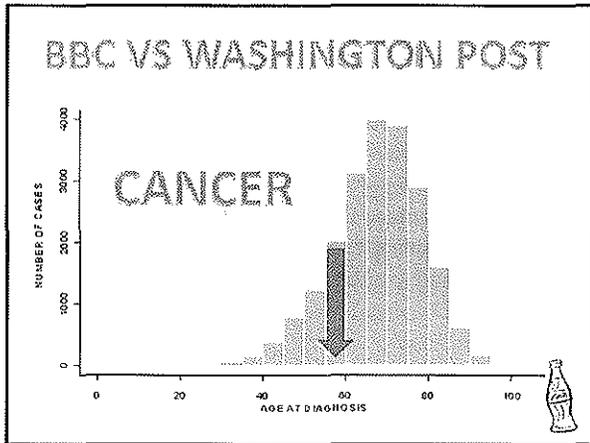
- (BBC) December 19, 2007
- <http://news.bbc.co.uk/2/hi/health/7150274.stm>
- *The Canadian Government published in **New Scientist** : 20X ammonia, 5X hydrogen cyanide & nitrogen oxides, & elevated polycyclic aromatic hydrocarbons in **cannabis compared to tobacco**.*
- *Affiliated sponsors are Windsor Chest Clinic and British Lung Foundation*



## BBC VS WASHINGTON POST

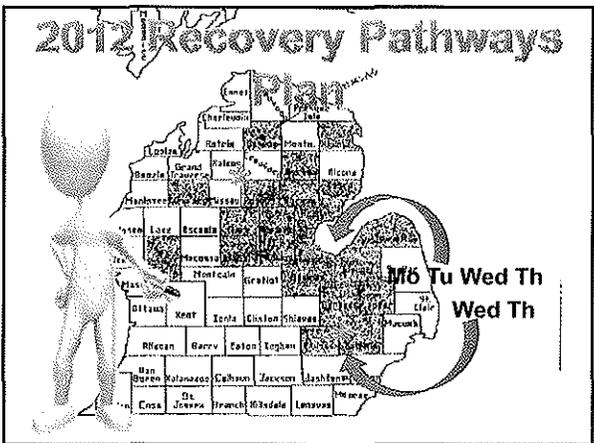
- Washington Post Staff – Marc Kaufman
- May 26, 2006
- **No Cancer – Marijuana Connection**
- David Geffen School of Medicine at UCLA distributed 1,200 questionnaires about marijuana use: >22,000 marijuana joints was heavy; 11,000-22,000 marijuana joints was moderate.
- No questionnaires given to any people older than 60 years of age.....is this a problem?





- Legit MMMP patient ?**
- 59 years old white male Vietnam Vet.
  - Confirmed morphine and meperidine allergy.
  - No recent history of opiate misuse or abuse.
  - 110 pack year history & 40 years/cannabis.
  - 6 feet 2 inches at 145 pounds.
  - **Extensive lung cancer with mets to Brain/Spine**
  - **Tumor from cerebellum to frontal sinus.**
  - No children, girlfriend drives. Prognosis 6 month
  - Refused chemo and radiation asked to go home.
  - No Psychiatric diagnosis.

- Legit MMMP patient ?**
- 49 years old white male Persian Gulf Vet.
  - Confirmed morphine and meperidine on PDMP.
  - History of opiate misuse and abuse.
  - 110 pack year history & 40 years/cannabis.
  - 5 feet 10 inches at 185 pounds.
  - **Extensive legal problems and probation**
  - **Tumor from skin biopsy benign fibroma.**
  - Grandchildren at home, girlfriend, and he drives.
  - Refused physical therapy when asked to go.
  - > 30 year history of schizophrenia diagnosis.



**Oakland County District Court** noted, about regulation and the Michigan Medical Marihuana Act (MMMA)

**[the MMMA “is probably one of the worst pieces of legislation I’ve ever seen in my life,”]**

- People versus Redden, (2009) September 14, 2010, No. 295809, Oakland County Circuit Court