



CRC MEMORANDUM



No. 1087

A publication of the Citizens Research Council of Michigan

September 2008

PROPOSAL 08-01: MEDICAL MARIJUANA

This CRC Memorandum is a summary of Report 352, a more detailed analysis of the statewide ballot proposal.

On November 4, 2008, the citizens of Michigan will vote on a statutory proposal to allow for the medical use of marijuana under state law for patients with certain “debilitating medical conditions” including cancer, glaucoma, HIV/AIDS, Crohn’s disease, epilepsy, hepatitis C, and multiple sclerosis, among others. The complete text of the proposal is available on CRC’s website at www.crcmich.org/election/index.html.

The legalization of medical marijuana is proposed because advocates argue that marijuana can be a beneficial drug for people with certain serious illnesses by presenting them with one more option to treat debilitating pain, nausea, and other symptoms. Opponents of medical marijuana counter that marijuana is an illegal drug and it has no medical purpose that cannot be more properly met through legal medication.

Current Marijuana Laws

The federal Controlled Substances Act (CSA) classifies marijuana as a Schedule I substance, making its use and distribution illegal. Schedule I drugs, which also include heroin, are defined as having a high potential for abuse, having no currently accepted medical use in the United States, and lacking accepted safety standards for use of the drug under medical supervision.¹ The CSA is not preempted by state laws, so federal agents can arrest and prosecute medical marijuana patients and caregivers under federal law. However, in practice, most arrests for marijuana possession are made by state and local officials, not by federal agents, who tend to focus on marijuana manufacturers and distributors.²

Under current Michigan law, marijuana use and possession are misdemeanors with punishment of up to one year in prison and/or a \$2,000 fine; manufacturing marijuana is a felony with punishment of up to 15 years in prison and/or a \$10 million fine for a first offense.³ Five Michigan cities⁴ have passed local medical marijuana ordinances, but they are largely symbolic because they are superseded by state law.

Twelve other states⁵ have passed laws legalizing medical marijuana. Most of these states have state-run registry systems and data on patients from four of the states⁶ indicate that the number of registered patients ranges from less than one-tenth of one percent of a state’s population to one-half of one percent.⁷

Proposal 08-01

This initiative seeks to protect qualified patients, caregivers, and physicians from arrests and penalties under state law, including civil penalties and disciplinary action by occupational licensing boards, for using or recommending marijuana for medical purposes. It would not change the law for individuals using marijuana without a recommendation from a doctor because of a debilitating medical condition. The Michigan Department of Community Health would be required to implement the law and administer a state medical marijuana registry. Qualified patients would need to show written certification from their physician and pay a registration fee. The legislation would prohibit smoking marijuana in public places, ban the possession of marijuana at schools and correctional facilities, and bar the operation of any motor vehicle while under the influence of marijuana. This initiative would not require employers to accommodate any form of marijuana use in the workplace. Nor would it require a government medical assistance program or commercial or nonprofit health insurer to reimburse a patient for any costs associated with the medical use of marijuana.

The proposed law does not specify how patients and caregivers would acquire marijuana for medical purposes, but it would allow them to possess up to 2.5 ounces and to grow up to 12 plants. It would allow for the assertion of an affirmative defense for the acquisition, possession, cultivation, manufacture, use, delivery, transfer, or transportation of marijuana or marijuana paraphernalia for medical use.



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Issues Raised

The debate over medical marijuana centers on the potential health risks and benefits of the drug. While marijuana has been shown to affect receptors on cells in a person's body and may have an effect on body movement, nausea, and immune system function, its use is not without health risks. These include impairment of memory and balance; risk of heart attack, cancer, and respiratory infections; and potential for hallucinations and withdrawal symptoms.⁸ It is important to note that many medications commonly used to treat illnesses can have adverse side effects. The biggest potential concern with medical marijuana is the fact that it may pose health risks associated with smoking.

Another health related issue is the fact that severe and chronic pain is on the list of debilitating medical conditions. This may be an issue for doctors because pain is subjective and can be difficult to diagnose.

The proposed law does not set up a legal supplier network of medical marijuana; registered patients and caregivers may legally grow marijuana, but the question remains as to how they would legally acquire the original marijuana (or marijuana seeds). Without a regulated supply of medical marijuana, patients may need to go to the black market and may have no way of knowing the quality and potency of their medical marijuana.

Law enforcement issues include the potential to increase illicit use of the drug and to undermine the federal government's "war on drugs." No convincing data show

that legalizing medical marijuana would lead to increased marijuana use among the general population. In any account, the potential for increased recreational use goes beyond the scope of laws regulating the approval of therapeutic drugs.⁹ Interviews with law enforcement officials at all levels of government found that while some said medical marijuana laws had no real effect on their law enforcement activities, others said that medical marijuana laws made it more difficult to prosecute some marijuana cases and led to confusion over how to handle seized marijuana.¹⁰

Medical marijuana pits the issue of states' rights against federal law. By legalizing medical marijuana, states are circumventing the Federal Drug Administration's (FDA) drug approval process and asserting that they believe marijuana to have medical benefits. When state and federal law are at odds, the U.S. Supreme Court ruled in *Gonzales v. Raich* (2005) that the federal government has the authority to regulate medical marijuana.

Michigan Impact

If this initiative passes, it will change the law and policies in Michigan as they relate to medical marijuana, but it will not alter federal marijuana policy. It will not legalize marijuana use for recreational purposes, although it may be difficult for law enforcement officials to differentiate between legal and illegal uses of marijuana.

The proposed law should not have a large economic impact in Michigan because users of medical marijuana will be required to cover

the State's costs associated with implementing a medical marijuana registry system and to pay for their medical marijuana. The State will have no role in supplying marijuana and the proposed law does not set up a system for taxing medical marijuana. Passage would make Michigan the first state in its region to legalize medical marijuana. This may have an effect on Michigan's image by aligning Michigan with the western and northeastern states that have medical marijuana laws.

¹ 21 U.S.C. Section 812 01/22/02.

² Eddy, Mark. Congressional Research Service (CRS) Report for Congress, *Medical Marijuana: Review and Analysis of Federal and State Policies* (updated 27.Jul.07), pp. 4.

³ Public Health Code (Act 368 of 1978), MCLA 333.7401(2)(D), 333.7403(2)(D), 333.7404(2)(D), 333.7413(2).

⁴ Detroit, Ann Arbor, Ferndale, Traverse City, and Flint.

⁵ California, Alaska, Oregon, Washington, Maine, Colorado, Hawaii, Nevada, Montana, Vermont, Rhode Island, and New Mexico.

⁶ California, Alaska, Oregon and Colorado.

⁷ One-half of one percent of Michigan's population would be 50,000 patients.

⁸ Mayo Clinic Staff. *Marijuana as Medicine: Consider the Pros and Cons*. 2006 (cited 11.Jul.08). Available at www.mayoclinic.com/health/medical-marijuana/GA00014.

⁹ Joy, Janet E.; Watson Jr., Stanley J.; and Benson Jr., John A.; eds. *Marijuana and Medicine: Assessing the Science Base*. National Academy of Sciences: Institute of Medicine. Washington DC: National Academy Press, 1999.

¹⁰ United States General Accounting Office (name has been changed to Government Accountability Office since issuance of this report). *Marijuana: Early Experiences with Four States' Laws that Allow Use for Medical Purposes*. Report to the Chairman, Subcommittee on Criminal Justice, Drug Policy and Human Resources, Committee on Government Reform, U.S. House of Representatives: GAO-03-189, November 2002.

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