

Minority Report to the HCR48 Medical Marijuana Dispensary System Task Force 2015

January 23, 2015

We represent the perspective and concerns of law enforcement and substance abuse education and prevention specialists in Hawaii. Police Chief Harry Kubojiri, of the Hawaii County Police Department, sits on the Medical Marijuana Dispensary System Task Force as the representative for the Law Enforcement Coalition (LEC). The LEC is made up of the four county police chiefs and prosecuting attorneys, and the Attorney General. Deputy Prosecuting Attorney Jon Riki Karamatsu is the designee for the Prosecuting Attorney for the City and County of Honolulu. Mr. Alan Shinn is the representative for the Coalition for a Drug-Free Hawaii, a highly regarded substance abuse prevention agency in Hawaii.

The purpose of the Medical Marijuana Dispensary System Task Force, as established by H.C.R. 48, H.D. 2, S.D. 1 (2014), was to "develop recommendations for the establishment of a regulated statewide dispensary system for medical marijuana to provide safe and legal access to medical marijuana for qualified patients." H.C.R. 48 set out the issues to be addressed by the Task Force as follows:

- (1) The appropriate number and location of dispensaries statewide;
- (2) The design of a tax structure (state and county);
- (3) Location and restriction issues;
- (4) Methodology for ensuring safety of supply;
- (5) A framework for cultivation and manufacturing medical marijuana products;
- (6) Regulations to ensure security and public safety;
- (7) Restrictions on advertising; and
- (8) Issues raised and compliance with any guidelines and/or directives issued by federal agencies with respect to medical marijuana.

We are concerned about the potential negative impact the proposed medical marijuana production and dispensary system will have on the health and wellbeing of the citizens of Hawaii, particularly without strong regulatory and enforcement systems in place to control and manage the production and distribution of this Schedule I psychoactive substance. While the task force has worked very hard and has identified many important issues to address in establishing a dispensary system in Hawaii, it has not been able to adequately address all of those issues, including critical issues related to the administration and regulation of a medical marijuana production and dispensary system, and related to the enforcement of regulations and laws.

Without strong regulatory and enforcement systems that have adequate resources, it would be extremely difficult to prevent significant quantities of medical marijuana products from being diverted, used, and sold for profit, outside of the dispensary system. Our children will have greater access to marijuana. Having medical marijuana dispensaries further reduces the perceived risks of marijuana and further normalizes the use of marijuana among youth. Many children could be harmed.

Work of the Task Force

While the task force has worked very hard, and has identified many important issues, it has not been able to adequately resolve many of them. This was very apparent at the task force meeting on December 16, 2014, when all of the task force proposals were to be reviewed and voted on by the members. There were many questions and extended discussions about the proposals. Many proposals were revised. Some proposals, like those regarding the production and manufacture of marijuana-related products, like edibles and tinctures, had not previously been the subject of serious discussion and consideration by the task force. When the issue of edibles had been previously raised, it appeared to have been dismissed by the task force as something the members did not want to consider. Then, at the meeting on December 16th, it suddenly appeared as a proposal to be voted upon. Due to the many unresolved issues, the task force decided to have another meeting at the end of December, and asked a subcommittee to meet in the interim, during the week of Christmas, to address some of the unresolved issues. It should be noted that some members were not able to attend the meetings scheduled during the weeks of Christmas and New Years. At the meeting on December 30th, the range of product and product manufacturing issues were still largely unresolved.

Some Key Unresolved Issues

1. **Regulation and enforcement.** It is not clear what agency will do it, or has the capability of doing it. If home cultivation and dispensaries are allowed to operate side-by-side, how will both systems be integrated and regulated? Some people attending task force meetings have expressed the opinion to the task force that they can grow and supply all the marijuana that is needed and do not need dispensaries on their islands.
2. **Laboratories.** It is still unclear whether or not there are laboratories in Hawaii that have the capability and willingness to handle dispensary system requirements (quantitative testing for THC and checking for contaminants in the marijuana).
3. **Inventory control and centralized electronic tracking system.** This is critical to prevent the diversion of product out of the dispensary system and the abuse and exploitation of the medical marijuana program. It must be established before the rollout of the dispensary system.
4. **Marijuana-related products.** The issue of marijuana-related products has not been thoroughly studied and addressed. Many questions still remain. It appears that some task force members favor allowing some forms of manufactured products (e.g., candies, baked goods, drinks, or highly concentrated marijuana oils) which will require much more involved regulatory systems. But it will be very difficult to regulate the manufacture, quality, potency, and safety of these products. It will also be very difficult to set and enforce patient limits for medical marijuana with these types of products, especially when patients are also allowed to grow their own marijuana. The manufacture of these products will greatly

commercialize marijuana, which is supposed to only be allowed for debilitating medical conditions. These products will inevitably target our youth--no matter how they are required to be packaged. They will end up in our schools.

5. **Regulation of the number and location of dispensaries and grow sites. Cultivation and dispensary inventory limits.**

Many issues are still unresolved, including how dispensary applications are even approved. Excess amounts may lead to distribution and use outside of the medical marijuana program.

Amongst the key justification statements for H.C.R. 48, and the establishment of a dispensary system, was the following:

[M]any of the State's almost 13,000 qualifying patients lack the ability to grow their own supply of medical marijuana due to a number of factors, including disability, limited space to grow medical marijuana, and an inadequate supply of medical marijuana to take care of their medical needs.

This is a very vague and misleading statement. It appears to suggest that most patients cannot grow their own marijuana. Many task force members, in making decisions about the dispensary system, have assumed that most of the 13,000 qualifying patients would need to be supplied by the dispensary system. But the truth is that many of the qualifying patients are growing their own medical marijuana and would like to continue to grow their own marijuana, even after dispensaries were established. A survey of the qualifying patients could be conducted to more accurately assess the patients who really need a dispensary system, and what products they actually need.

There are only a finite number of patients who would use the dispensary system. What would happen if the producers and dispensaries were providing a greater supply than what was needed? Would they start recruiting more "patients," join up with a physician engaged in a medical marijuana certification business to facilitate the certification process, or seek other ways of selling/distributing their products? How would they compete against other producers/dispensaries for the patients? Advertising? Special deals? Special products? Other arrangements? These businesses would have invested significant funds to operate and would likely compete heavily for the "patients," and would not just shut down operations. The stronger and bigger businesses, the ones with heavy financial support and experience, will likely beat out the smaller competitors.

6. **Transportation of marijuana.** Issues related to the transportation of marijuana between islands, and between producers, dispensaries, laboratories, and waste disposal sites have not all been resolved.

Potential Harm to Our Children

By allowing for the production and distribution of marijuana, even if intended only for medical use, Hawaii is condoning and supporting the use of marijuana, and reducing the perceived risk of marijuana use in our communities and schools. Here are some facts:

1. The Substance Abuse and Mental Health Services Administration (SAMHSA) has over 40 years of drug use data that shows lower perceived risk of harm by youth often results in increased use.
2. The recent 2014 Monitoring the Future (MTF) national school survey of drug use shows marijuana use by youth is still significantly higher than in 2008 and 2012. It also found that, of the youth surveyed, more youth (40%) in medical marijuana states had used an edible marijuana product in the last year than youth (26%) in non-medical marijuana states.
3. States with medical marijuana that allow both home cultivation and legal dispensaries show increases in marijuana use.ⁱ The increases in marijuana use are a concern as marijuana THC content and potency have also increased significantly. See for example:
http://news.olemiss.edu/index.php?option=com_content&view=article&id=4545%3Acanna-bispotency051409&Itemid=10
4. 1 in 6 minors who chronically use high-THC content marijuana become addicted and require intervention and/or treatment.ⁱⁱ In Hawaii, marijuana was identified as the primary substance used by a majority of adolescents, seventeen years of age and younger (62.4% in 2012), being admitted for drug treatment.ⁱⁱⁱ In Colorado, the Arapahoe House treatment network reported that teen admissions to treatment for marijuana use increased by 66% between 2011 and 2014.
5. Studies have linked marijuana use with mental illness, especially schizophrenia and psychosis. Marijuana use has also been linked with depression and anxiety.^{iv}
6. One of the most well designed studies on marijuana and intelligence, released in 2012, found that persistent, heavy use of marijuana by adolescents reduces IQ by as much as eight points, when tested well into adulthood.^v
7. In the 2014 MTF survey, twelfth graders reported that driving after marijuana use has become more common than drinking and driving.
8. The Children's Hospital of Colorado Emergency Department reported that between 2008 and 2011, an average of four children (between the ages of 3 and 7) were sent to the emergency room for unintentional marijuana ingestion, and in just the first half of 2014, that number increased to 14 children.

It should be noted that the Legislative Reference Bureau's report to the Legislature, entitled "Is the Grass Always Greener? An Updated Look at Other State Medical Marijuana Programs," dated August 2014, did not include a study or report of the potential harms to children and youth.

Other Proposals for Consideration

The following are ideas or proposals that may have already been raised at task force meetings, but which warrant further task force consideration:

1. Create a felony offense for promoting marijuana to minors similar to the offense of promoting intoxicating liquor to a person under the age of twenty-one, set out in section 712-1250.5, Hawaii Revised Statutes (HRS).
2. Amend the definition of "debilitating medical condition" in section 329-121, HRS, to tighten up the "severe pain" category which is currently too loose, allowing for people who are not suffering from critical or debilitating illnesses to obtain and use marijuana. We should consider provisions similar to those in New Mexico's law.

Conclusion

The task force did not have enough time to adequately address the many complex issues related to medical marijuana dispensaries. The task force could make some general recommendations to the Legislature, but should also advise it that many issues are unresolved and require further research, study, and consultation with experts. It would be premature to attempt to push through implementing legislation without first adequately addressing those issues. It is highly unlikely that many of those issues can be adequately resolved in a few legislative hearings.

If a medical marijuana dispensary system is established, marijuana use will likely increase, especially among youth, and Hawaii should be ready for the consequences of that increase. In addition to the costs for the administration and regulation of the medical marijuana dispensary system, Hawaii should also anticipate higher social costs associated with health care, the criminal justice system, education and prevention programs for youth, drug treatment, and related drugged driving traffic enforcement and associated accidents.

Thank you for the opportunity to share our concerns.

¹ Pacula, R.L., Powell, D., Heaton, P. Sevingy, E.L. (2013), Assessing the effects of medical marijuana laws on marijuana and alcohol use: The devil is in the details. Available: <http://www.nber.org/papers/w19302>

ⁱⁱ National Institutes of Health, National Institute on Drug Abuse. 2011. Topics in Brief: Marijuana. Available: <http://www.drugabuse.gov/publications/topics-in-brief/marijuana>

ⁱⁱⁱ Alcohol and Drug Treatment Services Report, Hawaii, 10-Year Trends (2003-2012)

^{iv} Moore TH, Zammit S, Lingford-Hughes A, et al. Cannabis use and risk of psychotic or affective mental health outcomes: A systematic review. *Lancet* 370(9584):319–328, 2007. Also Large, M., Sharma S, Compton M., Slade, T. & O., N. (2011). Cannabis use and earlier onset of psychosis: a systematic meta-analysis. *Archives of General Psychiatry*. 68. Also see Arseneault L, et al. (2002). Cannabis use in adolescence and risk for adult psychosis: longitudinal prospective study. *British Medical Journal*. 325, 1212-1213.

^v Meier et al. (2012). Persistent cannabis users show neuropsychological decline from childhood to midlife. *Proceedings of the National Academy of Sciences*.

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