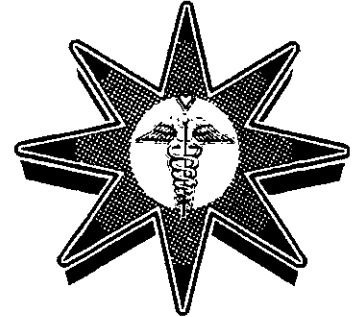


FILED
OFFICE OF THE CITY CLERK
OAKLAND

04 JAN 26 PM 4: 30

January 26, 2004



Compassion

Dear Members of the Oakland City Council,

As director of the first medical cannabis dispensary to have been recognized by the City of Oakland, I would like to thank you for your history of supporting the rights of medical patients to have safe access to their medicine. These important first steps taken by Oakland support the democratic rights of your constituents, who *overwhelmingly* supported Proposition 215, legalizing medical cannabis in California.

As you know, the federal government has been working to prevent the implementation of California's law, and OCBC is still engaged in ongoing litigation against John Ashcroft and the Bush administration. As a result, OCBC is currently not allowed to provide cannabis to patients in need.

It is my understanding that you are now working to craft new regulations for medical cannabis dispensaries. I, and the numerous patients with whom I work, are willing, and even eager, to support sound regulations that promote the needs of all Oaklanders, including public safety and neighborhood vitality, and the rights of medical cannabis patients. It is my sincere belief that it is possible to craft regulations that will meet all of our needs. I believe we can find a way to enable our City Council, and our population in general, to move forward with unity and solidarity that includes a united vote on the council, and harmony among community members.

Oakland can take pride in our city's history of leadership in support of compassion and justice. Since Oakland first took a position in support of medical cannabis, other events have only served to support the importance of this stance.

In fact, it is Oakland residents who have been in the lead in this vital national struggle. In the past months, California passed SB 420. However, the administration in Sacramento has blocked implementation of the patient-ID card system by refusing to fund it. As a result, even though it is now the law in California that such ID cards will be provided – they are not being made available. I have enclosed a news article about this problem, which also points out that OCBC is, in the absence of California following its own law, continuing to be the only source for valid, screened, photo-ID cards for many medical cannabis patients.

46
ORA/COUNCIL
FEB 3 2004

In addition, the Federal Ninth Circuit Court of Appeals has ruled for Angel McClary Raich, also an Oakland resident, holding that Federal interference with her medical cannabis use is unconstitutional!

Both OCBC's pending court case, and the broader national struggle against Ashcroft, depend on the Oakland City Council's maintaining the regulations that are currently the subject of ongoing litigation.

As you work to craft the regulations, it is important to keep in mind the attitude conveyed, both to the patients themselves, and to the wider world by your actions. It is important to the lives of people throughout the country that Oakland continues to make clear its support of the rights of medical cannabis patients, both in terms of the actual regulations, and in terms of the language and tone with which these issues are addressed.

As many of us have known, and as the Ninth Circuit court has now made clear, it is NOT medical cannabis patients who are breaking the law, but rather, it is government interference with the rights of medical cannabis patients that is illegal. Thus, many people feel that an unfair assumption is still being made that medical cannabis is a bad thing. That must be tolerated as minimally as possible. However, as national figures like Montel Williams and others have come forward to talk about their own medical cannabis usage – even in the face of threats from the federal government – Oakland should stand proudly on the side of justice, not on the side of Ashcroft.

This is not to say that regulation is not important, nor is it to imply that the medical cannabis community is not willing to accept regulations that are beneficial to all concerned. As we have all learned from the Rush Limbaugh incident, Oxycontin is a very dangerous addictive drug with severe side effects (including hearing loss and chemical dependency) and while it has some medical uses, is widely used in non-medical ways. Medical cannabis is used to treat many similar systems as Oxycontin, including back pain and muscle spasms. Oxycontin's addictiveness has gained it the nickname "hillbilly heroin" – nonetheless, the government has not threatened to limit the number of facilities licensed to dispense Oxycontin. Many in the medical cannabis community are uncomfortable with the message that is sent by putting severe restrictions on medical cannabis that are not put on more dangerous drugs. We are aware that this is a challenging issue, due both to the conflict with federal behavior, and due to the fact that medical cannabis is a new idea to some, and thus, may require extra caution.

Therefore, I would like to suggest the following:

1. Location of cannabis dispensaries. The suggested regulations proposed by city staff are written so that none of the current cannabis dispensaries could qualify the locational requirements for permitting. Transit oriented development exemptions are a common practice that could be applied to the cannabis dispensaries. A transit oriented exemption for the cannabis

providers in the uptown Oakland area would both address the need for City wide regulation while insuring that patients who rely on public transit could still access their medicine. We are not against regulation, but we want to insure that regulations are not written in a way that closes all cannabis dispensaries currently in existence.

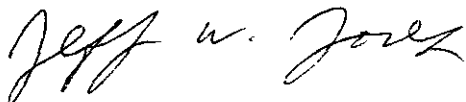
2. Consumption on site. In order to achieve the goals of public safety, patient needs, and neighborhood vitality, it is crucial that patients be allowed to medicate on-site. Such a policy is not only humane, it also will protect the neighborhood by preventing consumption in public. In addition, Oakland law currently allows tobacco products to be smoked on-site at licensed tobacconists – even though no medical or compassionate need requires it. Thus, while ventilation requirements *are* appropriate, denying medical cannabis patients options that tobacco smokers have is neither compassionate nor appropriate.
3. Compliance with SB420. It is important to maintain the intent of SB420 as the City of Oakland moves to create new regulations. SB420 does not *authorize* smoking within 1000 feet of schools but does not outright ban its consumption within these parameters and specifically speaks to *smoking* not consumption or distribution.
4. Number of dispensaries. The City of Hayward has officially recognized three dispensaries, and Berkeley has four. Based on the different population size and needs of Oakland, a similar ratio would suggest that Oakland should have at least nine to twelve dispensaries. Overtime the number is likely to increase as demand increases.
5. Avoid lines and loitering! If too few dispensaries are permitted, it will likely lead to long lines that could cause the very problems that the regulations are intended to address.
6. “Low priority” and legality. It is important to distinguish between something that is a low priority for law enforcement, and something that is simply LEGAL, and thus, not subject to law enforcement. If the City of Oakland wishes for dispensaries to be regulated, and pay a fee to the city, then it is not appropriate to say that prosecuting these fee-paying licensed dispensaries is a “low priority.” Rather, the policy should state that such dispensaries are legal under Oakland law, and thus, not subject to *investigation, arrest or prosecution*, but rather, entitled to protection by law enforcement. It would be reasonable however, to allow investigation only to ensure compliance with regulations set forth by the City.
7. The amount of the fee. A sliding scale based on the number of patients served seems difficult to track and enforce. Perhaps a flat fee of \$10,000 for each medical cannabis dispensary that could be paid in installments to the City would better meet the needs of the City and the medical cannabis dispensaries.
8. Patient co-ops. It is not clear what is gained by limiting the size of patient co-ops to three people. The main impact would be to require that numerous different people in multiple locations cultivate cannabis, because each provider could only provide for a tiny number of people. SB420 does limit the quantity of cannabis per patient but *does not limit* the number of patients that can come together to grow their medicine.

9. Review the impact. This is an issue that is experiencing rapid change, largely because of changes in State and Federal law. Also, since this is a fairly new issue, it may be hard to predict in advance the exact size of the need and impact of regulations. Therefore, we should review the impact of any potential regulations to see how they are working, and make adjustments as needed. We suggest a review of these regulations in January of 2005 to insure that patient and community needs are being met.
10. Individual Quantity. Oakland's current limits on the quantity of medical cannabis for individual patients seem to be working well, and should not be changed.
11. Rehabilitation for ex-offenders. People who are trying to put their lives back together should not be unnecessarily denied the very employment opportunities that help them avoid going back to prison. As it stands now, because of my federal conviction I personally would be unemployable under such standards. This should not become law.

Additional regulations. In the interest of seeking sound regulatory compromise, I would also like to make some suggestions for additional regulations that have not been mentioned by City Council members. These include:

1. Prohibition of public advertising
2. A fine system for violations that makes it possible to address problems without diverting police resources from the vital task of dealing with violence. Dispensaries licensed by the city would be waived from such regulations, but administrative fine based on the existing system in place for tobacco violations could be used if non-licensed facilities attempt to operate outside of the city's regulations. (see, e.g. Oakland Municipal Code 8.30.110 violations and penalties). This administrative fine approach would utilize an administrative process, rather than scarce police resources to insure that existing regulations, be they ADA, smoking or non compliance with the medical cannabis permitting are respected throughout all of Oakland.
3. Adopt the Medical Cannabis Association guidelines as the City of Oakland's.

Sincerely,



Jeff W. Jones
Executive Director
(510) 832-5346

FILED
OFFICE OF THE CITY CLERK
OAKLAND

04 JAN 26 PM 4:30

12/31/03

THE OAKLAND TRIBUNE

NEWS 3

State has no funds for printing drug ID cards

By Ed Fletcher

SACRAMENTO BEE

SACRAMENTO — Thursday was supposed to be a big day for medical marijuana users.

Californians with AIDS, glaucoma, cancer, multiple sclerosis, epilepsy, chronic pain and other ailments could begin getting state-issued identification cards — thus freeing them from jail time as they debate their medical need with cops.

That won't happen.

State officials charged with running the program say they don't have enough money to get it going.

"This is a fee-based program, but we need start-up funding," said Lea Brooks, a spokeswoman for the state Department of Health Services. "We have a very tight budget."

The author of the legislation aimed at augmenting Proposition 215 said he was "astounded" and "angry."

"Departments are there to carry out the law — not flaunt it," said Sen. John Vasconcellos, D-Santa Clara.

Under the law, the state cards would replace other cards authorized in some counties. Advocates say a state system would be a win-win for those in need and cops and courts — freeing criminal justice officials from separating legitimate patients from law breakers.

MARIJUANA

The state law would also create some statewide uniformity.

Even though Proposition 215 passed in 1996, the federal government continues to enforce federal marijuana laws in California. Court decisions have backed the state law, but the conflict continues.

Vasconcellos said he would be surprised if Gov. Arnold Schwarzenegger — who supported Proposition 215 — knows what the health department is up to.

The governor's press office said they are still checking into the matter.

"This administration will review the statute and implementation plan," said Schwarzenegger spokeswoman Ashley Snee, reading a prepared statement.

She would not speculate on when the law might be implemented.

In the absence of state-issued cards, the Oakland Cannabis Buyer's Cooperative is continuing to issue its own cards. On a recent mid-week day, clients from Sacramento, Glendale, Calaveras and Oakland all filed through to apply for or renew their cards.

Statewide, 23,000 Californians carry cooperative ID cards.

16
ORA/COUNCIL
FEB 3 2004



FILED
OFFICE OF THE CITY CLERK
OAKLAND

04 JAN 26 PM 4:31

Quick Search

GO

Search in:

EDITORIAL

Medical pot wins, again

Thursday, December 18, 2003

San Francisco Chronicle

[CHRONICLE SECTIONS](#)

- [Printer-friendly version](#)
- [Email this article to a friend](#)

ALTHOUGH it may be short-lived, the federal court ruling this week on medical marijuana offered a ray of encouragement to those who advocate for its clinical use and a signal to the U.S. Justice Department to rethink its heavy-handed policy of punishing those who use or cultivate pot only to alleviate human suffering and pain.

The Ninth Circuit U.S. Court of Appeals in San Francisco dealt at least a temporary setback Tuesday to the government's effort to derail the state's medical marijuana law, ruling 2-1 in favor of two women who, with doctors' advice, use locally grown pot to ease many physical discomforts, including pain from a brain tumor.

The court questioned the constitutionality of applying the federal ban on marijuana to people who, in compliance with state law, get and use the drug for free within state boundaries. If the drug is neither sold nor transported between states, the court said, neither Congress nor the White House can dictate its use.

It is hoped that the narrow victory will hold up if appealed to the U.S. Supreme Court, which has rendered past decisions favorable to both medical marijuana camps.

Nonetheless, it's encouraging that the recent ruling is the second in two months against the federal effort to uproot California's medical marijuana law. In October, the Supreme Court sided with advocates by rejecting a Bush administration request to outlaw doctor-patient discussions on the possible medical benefits of pot.

Together the rulings hint at a judicial trend that ought to give the Justice Department pause. At a minimum, they suggest that the states have the right to police themselves and craft humane systems to care for their citizens without fear of federal retribution.

MEDICAL CANNABIS ASSOCIATION

P.O. Box 70124

OAKLAND, CA 94612

PHONE: (510) 663-5838

OPERATING STANDARDS FOR MEDICAL CANNABIS PROVIDERS

(PROMULGATED BY THE MCA BOARD OF DIRECTORS ON 5/22/02)

The purpose of these standards is to establish appropriate safety and operational controls for medical cannabis providers in order to protect the welfare of medical cannabis patients and the community.

1. **Restriction on Services** - A medical cannabis provider shall provide cannabis only to qualified patients and their primary caregivers as defined by state law.
2. **Screening of Patients** - Medical cannabis providers must make reasonable efforts to ensure that all patients are legally qualified under state law. Verification of patient status includes the following requirements:
 - 1.) Inspection of a written recommendation or approval for medical cannabis from a licensed physician, unless the patient obtains an oral recommendation or approval.
 - 2.) Personal contact with the physician or the physician's agent to verify the recommendation or approval.
 - 3.) Verification of the patient's identity with government issued identification.
Medical cannabis providers may use an established third party agent for verification purposes to avoid any perceived conflict of interest.
3. **Restriction on Distribution** - Medical cannabis providers shall not provide cannabis to any person in an amount not consistent with personal medical use.
4. **Diversion of Medicine Prohibited** - No medical cannabis provider, patient, caregiver, or agent of a medical cannabis provider shall sell, barter, give away, or otherwise distribute cannabis to persons who are not legally qualified patients or caregivers.
5. **Records** - Medical cannabis providers shall maintain accurate records necessary to demonstrate compliance with the law; however, patient privacy must be maintained. All patient records must be kept in a secure location and regarded as strictly confidential.

04 JAN 26 PM 4:31
FILED
OFFICE OF THE CITY CLERK
OAKLAND

6. Packaging and Quality Inspection — Medical cannabis provided to patients must be inspected carefully, weighed accurately, and packaged appropriately before being entered into inventory. If the medical cannabis provider finds any problems with any medical cannabis product, the product shall be rejected. Medical cannabis providers shall first ask the producer a series of questions pertaining to the methods and chemicals used during cultivation to assess the hygienic integrity of the medical cannabis.

A visual inspection of the medical cannabis in question should then be conducted. The midsection of random cannabis flowers should be investigated and a high magnification jeweler's loupe should be used to inspect random cannabis flowers for spores, molds, fungi, or abnormal growth. The container or bag containing the medical cannabis should also be checked for abnormal smells that may indicate the presence of potentially harmful molds or fungi.

Medical cannabis providers must have an inspection process for new cannabis clones and seedlings that are brought in to the provider. The plants should be inspected for the presence of insects or fungi. A high magnification jeweler's loupe should be used to examine the leaves, stems, and potting medium before they are entered into inventory and provided to patients.

Medical cannabis providers must also conduct interviews with producers of medical cannabis edibles and concentrations pertaining the manufacturing process to assess the safety of the medical cannabis product. Manufacturers of medical cannabis edibles and concentrations should use standard recipes for preparing each product. If the manufacturer changes or alters their standard recipe, they must notify the provider, and the new product must be tested before it is entered into inventory.

7. Quality Assurance - Medical cannabis provided to patients shall meet the Medical Cannabis Crop Production Standards of the Medical Cannabis Association. Medical cannabis providers shall also maintain a Medical Cannabis Quality Assurance Plan that documents quality control inspection and interview procedures to assure the safety and hygienic integrity of medical cannabis and medical cannabis products.

8. Business Practices – Medical cannabis providers shall maintain the highest possible professional standards regarding the operation of their business affairs.

9. Security – Medical cannabis providers shall maintain adequate security to protect the welfare of patients and the community. The patients, staff, medicine, and money must all be protected. All medicine and money should be stored in a heavy fire proof safe behind a locked door and at no time left unattended during business hours.

10. Good Neighbors – Medical cannabis providers shall conduct their business in a manner that is respectful of their neighbors and the community. All facilities shall be kept clean and in good repair, both inside and out. Medical cannabis providers shall seek to ensure that there is no adverse impact to surrounding homes or businesses.

- 11. Nondiscrimination** – Medical cannabis providers shall not discriminate on the basis of age, sex, race, religion, national origin, sexual orientation, physical disability, mental condition, or socio-economic status of any patient, caregiver, or staff member.
- 12. Public Education** – Medical cannabis providers shall educate their patients and the community regarding the responsible use of cannabis and the potential risks and benefits of cannabis use. The Medical Cannabis Association also urges all Providers and administrators of Providers to seriously consider and wherever feasible make earnest efforts to develop and provide both a supportive social environment for their patients and essential social and health services so patients may achieve maximum health benefits.
- 13. Participation in Research** - Medical cannabis providers are encouraged to participate in research programs with researchers approved by the Medical Cannabis Association.