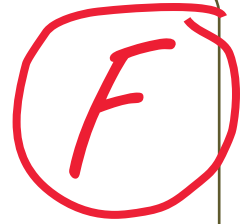


AMERICANS FOR SAFE ACCESS

PRES. OBAMA'S REPORT CARD ON MEDICAL CANNABIS



Introduction

While the prevailing public perception is that President Obama has addressed the issue of medical cannabis, that perception could not be further from the truth. During his campaign, then-Senator Obama told the *Medford Mail Tribune* regarding medical cannabis, "I'm not going to be using Justice Department resources to try to circumvent state laws on this issue." After several members of the Obama Administration stated publicly that the federal government would not interfere with state medical cannabis laws, the Justice Department issued a memo in October 2009 putting that new policy into writing. Advocates hailed this apparent policy change as a victory for patients across the country.

Eighteen months later, we've had a chance to assess the Obama Administration's track record, with respect to not just federal enforcement, but also civil rights – such as protections from housing and employment discrimination, the ability of veterans to access medical marijuana, and the impact that federal regulators and taxation have on local distribution centers.

Americans for Safe Access gives the Obama Administration an "F" for failing to address medical cannabis as a public health issue.

Enforcement – Grade F

Even if President Obama was keeping his word about not "using Justice Department resources to try to circumvent state laws," it would still be insufficient to address medical cannabis as a national public health issue. Unfortunately, President Obama has not been able to adhere to either the spirit or the letter of his new policy.

the Obama Administration has used federal agencies to execute at least 87 raids, resulting in no fewer than 27 indictments. President Obama, with the help of DEA Administrator Michele Leonhart, a Bush-holdover, is set to surpass his predecessor's abysmal record on medical cannabis raids, despite his new policy and enforcement promises.

Raids and Intimidation

President Obama is responsible for new intimidation strategies and more than 100 aggressive criminal enforcement raids in medical cannabis states since taking office in January 2009. By comparison, former President George W. Bush conducted just over 200 such raids during his eight years in office. Since the Justice Department memo was issued in October 2009,

- In just two months, March and April 2011, there were 35 federal raids in four states. Not since the height of federal enforcement in 2007 have there been so many raids in such a short period of time.
- On the day the Montana State Senate was to vote on a bill repealing the voter-approved medical cannabis law, the federal government executed 26 search warrants in that state and made arrests.

- In April 2011, U.S. Attorneys in the Obama Justice Department sent a letter to Washington's governor threatening state officials with criminal prosecution if they implement a distribution licensing system designed by the legislature.
- In 2010, the DEA went to federal court in Michigan to obtain confidential medical records for qualified patients, despite state law making their release a crime. In March 2011, the DEA raided a Michigan physician's office seizing more than 3,000 private patient records.

If any pattern has emerged, it is that the federal government has targeted vulnerable communities in an effort to undermine local and state laws.

Prosecutions

Dozens of federal medical cannabis defendants are still being prosecuted as a result of the aggressive enforcement policies of Pres. G.W. Bush. Rather than sending these cases to state court where they should be tried, the Obama Administration has continued to vigorously prosecute them in federal court, despite concerns raised by several federal judges. In fact, federal prosecutors continue to recommend harsh punitive sentences, which in some cases have been rejected by federal judges. For example, Charles Lynch was sentenced to one year and one day and James Stacey was sentenced to probation only, though both were subject to lengthy minimum sentences.

The continuing prosecution of Bush-era cases is bad enough, but the Justice Department has chosen to prosecute more than two-dozen newly indicted patients, providers, and caregivers.

A few examples include:

- Chris Bartkowicz, a licensed grower whose Colorado home was raided by the Drug Enforcement Administration the day after he was interviewed by a local news station, was sentenced to five years in prison.
- Kristen Krusyna was arrested with 14 others in Nevada for providing access to the sick patients of Las Vegas. She currently faces prosecution for possession with intent to distribute under the federal Controlled Substances Act.
- Two qualified California patients, Dr. Mollie Fry and her husband, attorney Dale Schafer, were

convicted and each sentenced to five years in prison. Although Fry and Schafer were tried and sentenced during the Bush era, the appeal of their sentence was strenuously opposed by Obama's Justice Department.

Housing & Employment – Grade C-

Despite a recent HUD decision to have local housing authorities address the issue of medical cannabis use and cultivation in public housing, hundreds of thousands of patients across the country are vulnerable to eviction and harassment. For years the federal government's draconian rules on drug use in public housing have been applied to medical cannabis patients.

Patients are equally, if not more, vulnerable to discrimination at the workplace. Court decisions have upheld such discrimination and, as a result, patients face an uphill battle to achieve rights afforded most others in society. Arizona, Maine, Michigan and Rhode Island have established explicit protections from discrimination on housing and jobs, but such helpful measures are insufficient to address a problem that needs federal leadership. According to a statement by HUD, it is the responsibility of local Housing Authorities to "determine, on a case by case basis, the appropriateness of program termination for the use of medical marijuana." Patients are thus unable to determine whether or not they may use their medication until after they are facing termination.

A few examples include:

- Robert Jones, a New Mexico patient, was told by the Housing Authority that he would be allowed to cultivate and use his medicine, only to later be evicted. Now he is homeless and forever banned from receiving federal housing aid.
- Marcy Doe, a California cancer patient, was forced to choose between complying with a new mandatory drug testing program or lose her job. Rather than forfeit her job and insurance, she agreed to testing and stopped using cannabis, leaving her to suffer from the severe nausea caused by chemotherapy.
- James Doe, a Colorado patient, was given a difficult choice by his landlord, HUD: stop storing and using medical cannabis at home or lose his voucher. James, a wheelchair-bound patient who

was struck at a young age with a degenerative muscle disorder, must now take the city bus to his friend's house in order to use his medication and obtain relief from the spasms that wrack his body 24 hours a day.

Financial Services – Grade F

Over the past three years, several large banks and financial institutions have, based on federal law, refused to provide services to medical cannabis businesses that comply with local and state laws. These companies include CitiCorp, Wells Fargo, Bank of America, and credit card service providers. This has caused hardship for medical cannabis providers who rely on financial institutions to handle cash and credit card transactions safely and efficiently.

In addition, the Internal Revenue Service under the Obama Administration has begun audits of state-compliant medical cannabis providers, threatening to bankrupt them by denying their deductions and demanding more taxes. Recently, it was revealed that the FDIC is putting pressure on banks to investigate and report medical cannabis businesses and their financial transactions. Yet when 15 Congressional

representatives demanded the Treasury Department stop threatening banks that provide accounts to medical cannabis patients and providers, the Treasury Department claimed no such pressure had been applied. Banks still say Treasury is responsible, and patients and providers continue to have their accounts closed.

Veterans – Grade C-

In 2010, the Department of Veteran Affairs responded to pressure by veterans and patient advocates and improved their policy on medical cannabis. Previous VA policy treated medical cannabis use as criminal, often resulting in patients who used medical cannabis being denied treatment by the VA. Now the VA recognizes medical cannabis may help some veterans and lets VA physicians decide if cannabis use would interfere with a patient's other medications. VA physicians are still barred from recommending medical cannabis to their patients, forcing veterans to consult doctors outside of the VA system. VA physicians also still ultimately have the authority to deny pharmaceutical medications to patients who use medical cannabis.

SOLUTIONS

The biggest impediment to implementation of state medical cannabis laws, as well as to states passing new laws, is the failure of the federal government to adopt a comprehensive medical cannabis policy. Such a policy would include the reclassification of cannabis – a demand made by advocates, scientists and medical experts alike. A comprehensive policy would also discontinue federal raids and prosecutions, leaving states to enforce their own medical cannabis laws. A proactive approach is needed to protect patients' civil rights, such as establishing the safeguards against housing and employment discrimination other members of society enjoy. Finally, although the medical efficacy of cannabis is well established for a number of health conditions, there remains much to learn about this extraordinarily promising therapeutic substance. The federal government must end its stranglehold on research by streamlining the research approval process and expanding the availability of research-grade cannabis.

Comprehensive Policy

Rescheduling

In 2002, the Coalition for Rescheduling Cannabis filed a petition with the Drug Enforcement Administration, demanding that the DEA place cannabis in a less restrictive classification, as cannabis has demonstrated considerable medical value and few physical risks. The coalition of patients and patient advocates has been waiting

nearly a decade for a decision. The federal strategy of delay has so far prevented the coalition from legally challenging the government's official position that cannabis is a highly dangerous drug with no medical value. Not only has the coalition received no response, but the DEA has refused to respond to Congressional, administrative and other formal requests for information on the petition's status. Rescheduling medical cannabis is the first step in developing a comprehensive federal policy.

Enforcement

The Obama Administration has made many public promises to scale back enforcement against medical cannabis patients and providers, and yet the raids and prosecutions continue. Even if the Administration carved out an exception for medical cannabis states, that would be an inadequate and shortsighted solution. The only way to ensure proper protection for patients and their providers is by developing a comprehensive federal policy. De-emphasizing federal enforcement as part of a comprehensive federal policy would allow millions of sick and dying patients across this country safe access to the medicine their doctors recommend. Free from fear of arrest and prosecution, medical cannabis providers could better focus on providing patients with the medicine they need, while operating in compliance with local or state laws. In addition, a comprehensive federal policy would support civil enforcement by local and state officials rather than the aggressive and harmful federal tactics currently utilized. Under a comprehensive federal policy, any pending federal cases would be discharged to state courts for adjudication of any local or state law violations.

Research

A robust federal research program would provide the mechanisms necessary to allow for multidisciplinary research focusing on the medical benefits of cannabis. This type of federal research program, as part of a comprehensive federal policy, would cut through the red tape that currently exists during the planning stages of cannabis research by removing the onerous review system that currently obstructs most research in the United States. It would also end a decades-long monopoly on research grade cannabis by granting additional licenses to provide alternate sources of supply for FDA-approved clinical trials. Finally, an ideal research program would provide competitive federal grants, encouraging researchers to enter the field and become experts in cannabinoid science. A research program is imperative to fully unlock the extraordinary promise of cannabis and cannabinoid therapeutics, including new, more effective treatments for some of the most devastating conditions. Patients suffering from cancer, multiple sclerosis, Alzheimer's, diabetes, Huntington's, and a host of other fatal or debilitating diseases deserve access to any medication that may help them live longer, more comfortable lives. Hundreds of peer-reviewed scientific studies indicate cannabis has that potential. We need to know more.