AmericansFor SafeAccess
Advancing Legal Medical Marijuana Therapeutics and Research

October 19, 2015

Support Sensible Dispensary Regulation, Not Fear-Based De Facto Bans

ASA urges the Anne Arundel County Council to pass the sensible zoning in Bill 97-15 with amendments and to reject the needlessly burdensome and ultimately harmful rules in the proposed changes to Bill 96-15.

Introduction

Americans for Safe Access (ASA) would like to thank the Anne Arundel County Council for taking the time to consider the issue of how the sick and ill residents of the county will be able to utilize the state's medical cannabis dispensary access program. ASA is the nation's largest organization working solely on advancing safe and legal access to medical cannabis for patients and researchers. The Maryland medical cannabis program has some of the best product safety provisions in the nation and is a program that the state should feel proud of rather than hide in the shadows.

There are two bills before you that deal with the zoning of medical cannabis dispensaries, cultivation centers, and processors. However, only one of the bills is consistent with the intent of the state law to facilitate safe and legal access to medical cannabis for patients under the supervision of their physician, while the other amounts to a de facto ban. ASA strongly believes in the principle that the best medical cannabis program is not necessarily the strictest, as is often the stated goal of legislators. In reality, the "strictest" program is one that denies wellness to those who need it, which is the case with one of the bills before the County Council today.

Instead, ASA stands by the notion that the best medical cannabis program is the one that provides the greatest level of wellness to the greatest number of people. **There is only one bill before that supports that pro-patient position, and that is why ASA urges the Council to pass 97-15 and reject 96-15.**

The following testimony will explore some of the supposed fears with allowing access to medical cannabis dispensaries and will address the proposed bullet point changes to 96-15 that were publicly announced via press release last Friday. Additionally, ASA strongly recommends that you refer to the recently revised version of our *Where Will Patients Obtain Their Medicine* report, which goes into each of these areas and more in greater detail.[1]

Crime

There is an apparent fear that the presence of medical cannabis dispensaries will somehow bring a greater level of crime to Anne Arundel County. Unfortunately, there is no reputable evidence that supports this notion. In fact, the overwhelming preponderance of studies on the subject have reached similar conclusions: medical

[1] Available at: https://american-safe-access.s3.amazonaws.com/documents/dispensary_report_2015.pdf.

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cannabis dispensaries to not increase crime, and they may have a small but measurable impact in reducing crime in the areas immediately surrounding them.

A 2012 peer reviewed study published in the Journal of Studies on Alcohol and Drugs explored the issue of dispensaries and crime in Sacramento, California. Among the conclusions of the report is the following:

> *"There were no observed cross-sectional associations between the density of medical marijuana dispensaries and either violent or property crime rates in this study. These results suggest that the density of medical marijuana dispensaries may not be associated with crime rates or that other factors, such as measures dispensaries take to reduce crime (i.e., doormen, video cameras), may increase guardianship such that it deters possible motivated offenders*."[2]

More recently, another peer reviewed study published by Journal of Studies on Alcohol and Drugs in 2014 reached the following conclusion:

> *"...the impact of MML [medical marijuana law] on crime was negative or not statistically significant in all but one of the models, suggesting the passage of MML may have a dampening effect on certain crimes….*
>
> *...Interestingly, robbery and burglary rates were unaffected by medicinal marijuana legislation, which runs counter to the claim that dispensaries and grow houses lead to an increase in victimization due to the opportunity structures linked to the amount of drugs and cash that are present. Although, this is in line with prior research suggesting that medical marijuana dispensaries may actually reduce crime in the immediate vicinity…."*[3]

The above selections of peer reviewed research are concrete evidence of why fears about medical cannabis dispensaries are myths, not reality. To limit patient options over this sort of erroneous fear would not only defeat the purpose of having a medical cannabis access program, it would do so on false grounds. Impeding patient access should be avoided generally, but it certain should never be impeded when the basis for impeding rests upon false grounds.

Additionally, the fear articulated by Anne Arundel Police Chief Tim Altomare as reported by the Capital Gazette newspaper on October 14, 2015 does not make logical sense. Chief Altomare takes the position that those who deal cannabis illicitly will abuse the program by obtaining cannabis from dispensaries to sell on the black market. Considering that the price of regulated medical cannabis is often close to and in some cases in excess of street prices, there is little-to-no financial motivation for illicit dealers to obtain cannabis from the program. Even if Chief Altomare is right that people would abuse the system, limiting dispensary options in Anne Arundel County will not do

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[2] Kepple NJ, Freisthler B. "Exploring the ecological association between crime and medical marijuana dispensaries.J Stud Alcohol Drugs. 2012 Jul;73(4):523-30. Accessible at http://www.ncbi.nlm.nih.gov/pubmed/22630790.

[3] Morris, Et al. "The Effect of Medical Marijuana Laws on Crime: Evidence from State Panel Data, 1990-2006" PLoS One. 2014; 9(3): e92816. Accessible at http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3966811/.

anything to combat this, it would only serve to create a greater black market demand for cannabis in Anne Arundel County because some patients will not be able to travel out of country to obtain it and would rely on such dealers. If illicit cannabis sellers are going to abuse the program, a county-wide ban or hyper restrictive zoning ordinances will simply not address that concern. Chief Altomare's fear defies logic and his analysis of the facts is similarly flawed.

Addiction

Some have put forward the notion that medical cannabis dispensaries will lead to some sort of addiction crisis in the county. The reality is that medical cannabis actually has significant potential to help ease the problems of opioid addiction and overdose. Therefore, limiting access to medical cannabis dispensaries is actually exacerbating the existing addiction and overdose issues that persist in the county. Adoption of policies that allow for safe and legal access to medical cannabis dispensaries is sound public policy towards reducing overdoses and addiction. There is a growing body of evidence that supports this position.

A 2014 study published by JAMA Internal Medicine looked at ten medical cannabis states from 1999 to 2010 and found "[s]tates with medical cannabis laws had a 24.8% lower mean annual opioid overdose mortality rate...compared with states without medical cannabis laws." [4]

More recently, a 2015 study by researchers associated with the RAND Corporation, the National Bureau of Economic Research and University of California, Irvine concluded:

> *"…states permitting medical marijuana dispensaries experience a relative decrease in both opioid addictions and opioid overdose deaths compared to states that do not. Our findings suggest that providing broader access to medical marijuana may have the potential benefit of reducing abuse of highly addictive painkillers."*[5]

Teen Use

While the "won't someone think of the children!" line of panic-based reasoning is the gut reaction of many when looking at medical cannabis and teen use, the available evidence is similar to the evidence on dispensaries and crime - the fears are simply not rooted in reality.

A study by Johns Hopkins University Bloomberg School of Public Health examining the impact of changes in cannabis laws on teen use from 1999 to 2013 found, "[d]espite

[4] Bachhuber, Marcus, et al., Medical Cannabis Laws and Opioid Analgesic Overdose Mortality in the United States, 1999-2010, JAMA Internal Medicine, Oct. 2014, available at: http://archinte.jamanetwork.com/article.aspx?articleid=1898878.

[5] Powell, David, et al. Do Medical Marijuana Laws Reduce Addictions and Deaths Related to Pain Killers? NBER Working Paper No. 21345, July 2015. Abstract available at: https://www.aei.org/publication/increased-marijuanause-for-chronic-pain-reduces-addictions-and-deaths-related-to-opioid-pain-killers/.

considerable changes in state marijuana policies over the past 15 years, marijuana use among high school students has largely declined." [6]

Similarly, a July 2015 peer reviewed study published by the Lancet that looked directly at the impact of state medical marijuana laws on teen use reach the following conclusion:

> *"In conclusion, the results of this study showed no evidence for an increase in adolescent marijuana use after passage of state laws permitting use of marijuana for medical purposes...However, concerns that increased adolescent marijuana use is an unintended effect of state medical marijuana laws seem unfounded."*[7]

Flaws in the Proposed Changes to 96-15

The proposed changes to 96-15 from a complete ban on safe and legal access to medical cannabis in Anne County may seem reasonable on their face, but ultimately they will likely result in a de facto ban throughout the county. Some of these proposed changes would lead to delays and higher medicine costs for patients (who already must pay 100% out of pocket as health insurance does not coverage medical cannabis therapy), while others are impossible to implement because they are inconsistent with state or federal requirements.

- Medical marijuana growing and processing facilities would not be permitted within of 1000 feet of dwellings and schools.
- Medical marijuana dispensaries would not be permitted within of 1000 feet of dwellings and schools north of Route 50 and east of the South River.

The proposed radius distances that have been added to Bill 96-15 would help facilitate a de facto ban. Based on the maps published in the Capital Gazette leave very little real estate for where dispensaries may open. This is likely the result of dwellings being added, as "dwellings" would presumably include all building units where people reside. While ASA does not have a problem with restricting dispensaries from opening in residentially zoned locations, there is no articulable concern that stands up to fact-based muster to force this distance requirement on dispensaries. Additionally, there seems to be no contemplation about what happens if a school or dwelling opens up after a dispensary is licensed and operating at given a location. It seems that the proposal in 96-15 would result in these business having to shutter their operation. This may also be the case under 97-15, however, there is substantially more room for dispensaries to locate under the 96-15.

ASA recommends that the distance be changed to 500 feet and that the dwelling language also be stricken in 96-15. For both bills, ASA recommends adding a clause that says the distance requirements shall be based upon schools open at the date of

[6] Johnson, Rene, et al., Past 15-year trends in adolescent marijuana use: Differences by race/ethnicity and sex, Drug and Alcohol Dependence, Sept. 2015, available at: http://www.drugandalcoholdependence.com/article/S0376-8716(15)01618-X/abstract.

[7] . Hasin, Deborah S. et al., Medical marijuana laws and adolescent marijuana use in the USA from 1991 to 2014: results from annual, repeated cross-sectional surveys, The Lancet, June 15, 2015, available at: http://www.thelancet.com/pdfs/journals/lanpsy/PIIS2215-0366(15)00217-5.pdf.

passage. Otherwise, anyone who wishes to open up a school has the power to shut down any dispensary they wish to locate near.

- Special exception zoning, which requires a public hearing, will be required for facilities.

At first blush this provision does not seem terribly offensive to safe access, but it could result is delays and ultimately and de facto ban. Even if applicants are successful in this extra layer of big government bureaucracy, the time and expense spent on this process will result in needlessly higher prices for patients.

ASA recommends strike this provision.

- Marijuana dispensaries will not be allowed in mixed use zoned areas in the County.

This provision is also non-offensive at first blush, but the analysis of whether or not it is sound policy ultimately falls on comparison to the available amount of land that is restricted by this proposal. As a result, it is difficult to say whether or not this provision is harmful to patient access. However, since the available amount of land for dispensaries under the proposed changes to 96-15 is so scant, ASA recommends striking this provision unless there is 1) a demonstrated need for this restriction, and 2) that there be adequate real estate available for dispensaries to locate.

- Growing operations must be on at least 10 acres.

The necessity for this provision is puzzling. On the one hand, large grow operations will be a benefit to patients, as the best array of products and lowest prices possible come about when their is a great amount of cannabis being grown by licensed growers. However, this is more likely to cause problems than promote robust and cost-efficient options for patients. This requirement may mean the cultivators will have to obtain more land than they need. Not only will this create greater upfront costs, this will cause increased costs during operation as maintaining and securing the property will needlessly have extra area to take care of. The best determination of the size of cultivation operations is competition and market forces, not big government requirements that cause unnecessary costs to patients.

ASA recommends striking the 10-acre requirement.

- Growing operations may not emanate light at night.

While the issue of light pollution is not unreasonable, how will facilities meet this requirement and still have adequate lighting under the security requirements of the state's medical cannabis laws and regulations? Additionally, how will anyone enter or leave the facility after dark without some light emanating from the facility?

Instead of a complete prohibition on lighting, a more reasonable course of action would be require that all light used for the cultivation of marijuana shall be shielded and downcast so as to not emit beyond the property where cultivation is occurring. Additionally security lighting needs to be allowed as it is a principle component to all

successful security programs. If there is concern that security lighting will create light pollution, requiring motion sensors and limiting the lumens provide a sensible middle ground than a ban on nighttime lighting.

- Growing facilities must have on-site armed security.

This requirement is non-implementable under the August 2013 U.S. Department of Justice Memo, Guidance on Marijuana Enforcement.[8] The fifth of the eight enumerated guidelines states that programs that allow for firearms in the cultivation and distribution of cannabis should face federal prosecution. Almost without fail, nearly all of the federal prosecutions against state-legal medical cannabis providers occurs when there is a firearm involved.

Unless the goal of the Anne Arundel County Council is to cause state-legal medical cannabis providers to face federal prosecution, this provision must be stricken.

- Processors must be co-located with growers.

The necessity for this provision seems to be limiting the number of physical locations where medical cannabis cultivation and distribution take place, but without a stated reason why that is necessary. Given the lack of necessity, we recommend striking this provision.

- Window and counter displays of marijuana will not be allowed.

ASA does not oppose local zoning that forbids the display of cannabis or cannabis imagery from the public view. However, banning counter displays of cannabis inside of a medical cannabis dispensary makes absolutely no sense. Patients should be able to view the products they are considering purchasing.

ASA recommends striking the counter display portion of this provision.

- On-site physician prescribing and dispensing will not be allowed.

ASA has no objection to this provision.

[8] Deputy U.S. Attorney General James A. Cole, Guidance Regarding Marijuana Enforcement, August 29, 2013, U.S. Justice Department memo, available at: http://www.justice.gov/iso/opa/resources/305201382913275685746 7.pdf.

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