

ASA NATIONAL POLICY AGENDA

111TH CONGRESS 2009-2011

END FEDERAL RAIDS, INTIMIDATION AND INTERFERENCE WITH STATE LAW.

Thirteen states representing more than 72 million people have passed laws authorizing individuals living with a serious or chronic illness to use and obtain cannabis as recommended by a physician. However, these state laws differ from the federal law and leave patients and their providers vulnerable to federal raids, arrest, and prosecution. Since 2006, many state and local governments have been working overtime to fully implement their state laws to curb abuse and create the appropriate systems to carefully regulate and control the distribution of medical cannabis to authorized individuals in their communities.

Effective implementation of state medical cannabis laws is stymied by federal interference. The U.S. Department of Justice together with the Drug Enforcement Administration has conducted scores of enforcement raids and employed intimidation tactics designed to undermine the implementation of state and local law. The importance of state laws, and the protection they provide, is underscored by the reluctance of the federal policymakers to address the issue of medical cannabis in a meaningful way. Until the Congress and the Administration create a comprehensive national medical cannabis strategy, individual states should not be obstructed from responding to the public health needs of their citizens.

PERMIT AFFIRMATIVE DEFENSE AND ESTABLISH FEDERAL LEGAL PROTECTION FOR INDIVIDUALS AUTHORIZED BY STATE OR LOCAL LAW TO USE OR PROVIDE CANNABIS FOR THERAPEUTIC USE.

The United States Supreme Court, in *Conant v. Walters*, upheld a decision by the Ninth U.S. Circuit Court of Appeals that physicians have a Constitutional right to recommend the use of cannabis to their patients. Unfortunately, federal law specifically prohibits the use of cannabis – even for therapeutic purposes. Outdated federal policies significantly impede safe and legal access to cannabis; most patients have to break federal law and place themselves (or their caregivers) in unnecessary and potentially harmful circumstances in order to gain access to cannabis legally recommended by their physician.

Currently, the Department of Justice has prosecuted more than 100 licensed medical cannabis patients and providers. Unfortunately, federal defendants are forbidden from presenting evidence at trial

their marijuana-related activities were for therapeutic purposes and in compliance with state law, limiting their ability to present a defense in federal court. Congress and the Administration should amend the Controlled Substances Act to provide an affirmative defense in federal court and establish legal protections for individuals who use or provide cannabis for therapeutic use in accordance with state and local law.

ENCOURAGE ADVANCED CLINICAL RESEARCH TRIALS THAT MEET ACCEPTED SCIENTIFIC STANDARDS.

Federal law clearly requires adequate competition in the manufacture of Schedule I and II substances, but since 1968 the National Institute on Drug Abuse (NIDA) has maintained a monopoly on the supply of cannabis used for legitimate research purposes. The Drug Enforcement Administration helps to protect NIDA's monopoly by refusing to grant competitive licenses for the production of research-grade cannabis. In 2007, U.S. Department of Justice-appointed Administrative Law Judge Mary Ellen Bittner issued an Opinion and Recommended Ruling which concluded that granting competitive licenses would be "in the public interest." However, the Bush Administration has taken no action, and the Administrative Recommendation remains pending.

Congress and the Administration should work to remove the political and bureaucratic obstacles that inhibit clinical research and instead should create incentives to conduct research in accordance with the Institute of Medicine's recommendations.

CREATE A NATIONAL MEDICAL CANNABIS STRATEGY THAT INCLUDES A SAFE AND LEGAL ACCESS PLAN

A scientific consensus supports the therapeutic use of cannabis to control symptoms of serious and chronic illness. In the past decade, clinical research has clearly demonstrated that the use of cannabis, and its constituents, can safely and effectively treat symptoms of serious and chronic illness like nausea and vomiting, loss of appetite, pain and spasticity.

The science and policy regarding the medical use of cannabis should not be obscured or hindered by the debate surrounding the legalization of marijuana for general use. Scientific consensus coupled with state leadership has provided a solid foundation for federal policymakers to create a comprehensive plan to support long-term solutions for safe and legal access to cannabis for therapeutic use and research.