



# Americans for Safe Access

Activist Newsletter

Defending Patients' Access to Medical Marijuana

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## ASA'S 2012 YEAR IN REVIEW

### Connecticut 17th Medical Cannabis State

Beginning in October, residents of Connecticut with qualifying medical conditions became eligible to obtain temporary registration certificates for medical cannabis. The state Department of Consumer Protection has until July 2013 to tell state lawmakers how it intends to manage the distribution of medical cannabis in the state. Until then, purchase or cultivation of cannabis remains illegal for authorized patients, but they may legally possess up to two and a half ounces.

### Massachusetts 18th Medical Cannabis State

On January 1, Massachusetts became the 18th medical cannabis state after an initiative was approved in November by 63% of the state's voters. Qualifying patients with a doctor's certification and their caregivers may register with Department of Public Health to possess up to a 60-day supply of medicine. DPH will license at least 14 distribution centers in 2013, with a minimum of one in each county. DPH will also issue regulations for home cultivation for registered patients whose access is limited due to distance to a distribution center, financial hardship, or lack of transportation. Until final regulations are issued, the written recommendation of any patient's doctor will be considered a limited cultivation registration allowing the patient or a caregiver to grow cannabis in an enclosed, locked facility.

### Arizona Picks Dispensary Operators

In August, Arizona health department officials awarded dispensary licenses in the state. The Department of Health Services used a lottery to pick operators for medical cannabis distribution centers in the 77 regional areas that had multiple applicants; 22 areas had only one. State law created by a 2010 voter initiative allows up to 126 distribution centers, with the total for each area based on population.

The day after the lottery, Gov. Jan Brewer authorized the state's attorney general to explore closing all dispensaries in Arizona under the legal theory that the state cannot authorize activities illegal under federal law. Gov. Brewer had earlier halted implementation of the dispensary program over concerns about federal threats to state officials, but a federal court dismissed the suit.



### ASA Rescheduling Appeal Heard by DC Circuit

On October 16, the D.C. Circuit heard oral arguments in *Americans for Safe Access v. Drug Enforcement Administration*, a legal challenge to the government's contention that cannabis has no medical use. ASA argues that the DEA acted improperly in denying a petition to reclassify cannabis as having medical use. The panel of three judges focused on whether ASA has a legal basis for suing the government. The court requested additional briefing on the harm sustained by one of the plaintiffs, disabled U.S. Air Force veteran Michael Krawitz, who was denied treatment by the VA because he was using cannabis on a doctor's advice. The case is the first time in nearly 20 years that a federal court has heard arguments on the classification of cannabis as a Schedule I substance. A decision on whether the suit can proceed is expected soon.

### "Truth in Trials" Act Reintroduced in House

In July 2012, the "Truth in Trials" act, a bipartisan House bill to allow federal defendants in medical cannabis states to present evidence of compliance with state law, was reintroduced by Rep. Sam Farr (D, CA-17) with 18 co-sponsors. HR 6134 was referred to a House committee but never voted on. The bill was first introduced in 2003.

### Bill to Stop Federal Forfeiture Introduced

In August, a bill to halt federal property forfeiture actions targeting state-authorized medical cannabis businesses was introduced in the House with nine co-sponsors. Federal prosecutors have sent letters threatening forfeiture to more than 300 property owners in California, as well as landlords in Colorado and other states, resulting in the closure of more than 400 facilities. HR 6335 was referred to committee but never voted on.

### First New Jersey Distribution Center Opens

New Jersey's first medical cannabis distribution center began serving patients on a limited basis at the end of 2012, after more than two years of delays by Governor Chris Christie. Greenleaf Compassion Center, the first of six slated to operate in the state, is currently only accepting patients by individual appointment due to the backlog of demand in the state. The opening of other licensed centers has been delayed by zoning battles.

### DC Approves 4 Centers, 6 Cultivators

Two years of implementation planning in the District of Columbia resulted in 2012 in the licensing of four distribution centers and six cultivation centers. The distribution centers are slated to begin providing medical cannabis in 2013 to patients with cancer, HIV/AIDS, glaucoma and severe muscle spasms. Six cultivation centers each authorized to grow 95 plants have been approved separately by the DC Department of Health. Qualifying persons will be allowed to possess up to two ounces of cannabis obtained from one of the distribution centers. In May 2010, the D.C. Council created a process to enact a 1998 initiative District voters passed with 69% approval but which Congress had blocked with its constitutional power over District laws.

### Rhode Island Approves Licensing Dispensaries

In May 2012, Rhode Island lawmakers directed the Department of Health to begin licensing medical cannabis dispensaries. Public comment on the final registration for the first of three compassion centers ends on January 2. The General Assembly overrode the veto of then-Gov. Donald Carcieri in passing the legislation to create compassion centers in 2009. Current Gov. Lincoln Chafee had halted the process but reached an agreement with legislators on modified rules for distribution.

### 5 Michigan Caregivers Sent to Federal Prison

Five Michigan patients and caregivers were sent to federal prison in 2012 on counts related to medical cannabis. Gerald Lee Duval Jr., 52, received 10 years in federal prison, while his son, Jeremy Duval, 30, got five years after being convicted in April of multiple felonies in a federal trial that prohibited a medical defense or evidence of compliance with state

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law. Three other Michigan patients and caregivers were sentenced under federal plea agreements after state law enforcement turned their cases over to federal prosecutors. Shelley Waldron, 42, and Jaycob Montague, 26, each took plea deals that gave them 18 months in prison, while John Marcinkewicz, 42, got a mandatory minimum of five years for cultivating more than 100 plants.

### Montana Caregiver Convicted, Then Gets Deal

In a highly unusual move, federal prosecutors in December offered a Montana medical cannabis caregiver a plea deal to reduce his sentence after he had already been convicted. Chris Williams faced a mandatory minimum of more than 85 years in federal prison and a forfeiture action seeking \$1.7 million after being convicted of eight marijuana and gun counts. The plea deal dismisses the forfeiture action and the bulk of the charges, leaving Williams with a likely five-year prison term when he is sentenced in January. The case was the first to go to trial after federal raids on 26 medical cannabis providers in March 2011.

### Advocates Overturn LA Dispensary Ban

In October, the Los Angeles City Council reversed a ban on medical cannabis dispensaries after a patient coalition filed more than 50,000 signatures to force a special election. The council had spent more than four years on failed attempts to regulate distribution in the country's second largest city before instituting the ban. A regulatory ordinance enacted in April 2010 was quickly mired in legal challenges that resulted in parts of the ordinance being ruled unconstitutional. In September, federal prosecutors filed property forfeiture suits against three landlords who rent to dispensaries in LA and sent letters threatening forfeiture to another 68 property owners.

### Grassroots Lobbying Gets California Dispensary Bill Through Assembly

A bill to establish statewide rules for California's medical cannabis dispensaries won approval in the Assembly after a community lobbying effort led by ASA and other organizations. Following two days of strategy meetings and trainings at the Unity Conference hosted by ASA at an AFL-CIO office in Sacramento, 300 patient advocates descended on the state Capitol to lobby lawmakers. Considered dead in committee, the bill would have established an oversight board for dispensaries and made it difficult to ban them. AB 2312 was withdrawn by its sponsor, Assemblymember Tom Amiano, over concerns with last-minute amendments.

### California Dispensaries Gain Legal Footing

In October, the California Fourth Court of Appeals took only two weeks after hearing arguments from ASA Chief Counsel Joe Elford to reverse the conviction of San Diego dispensary operator Jovan Jackson. The unanimous ruling says member participation in collectives may be limited to purchasing cannabis. Jackson was convicted in September 2010 after a judge ruled he could not use California's medical cannabis law as a defense.

In May, the California Supreme Court had let stand a similar appeals court ruling in *People v. Colvin* that says a collective may cultivate and transport cannabis on behalf of members who need not participate in its operations, and that cannabis extracts and concentrates are legal.

In July, an appeals court ruled in *County of Los Angeles v. Alternative Medicinal Cannabis Collective* that cannabis dispensaries cannot be banned by local officials. In January 2012, the California Supreme Court had set aside appellate rulings used to ban medical cannabis dis-

pensaries, voiding one as moot and vacating the other, as the court considers a number of cases on dispensary regulation. The court voided a decision in *Pack v. City of Long Beach* that had said federal law preempts some dispensary regulations. The vacated ruling in *City of Riverside v. Inland Empire Patient's Health and Wellness Ctr.* had held that local governments could legally ban distribution. The California Supreme Court may rule on the collection of dispensary cases in 2013.



### Advocates and Officials Resist in NorCal

Federal raids on dispensaries and threats to landlords in Northern California resulted in large rallies in Sacramento, San Francisco, and Oakland, as well as public rebuke from elected officials. Lawmakers in five states signed a bipartisan letter to President Obama urging him to respect state law. House Minority Leader Nancy Pelosi and San Francisco's mayor Mayor Ed Lee issued similar statements.

A federal attempt to shut one of California's largest medical cannabis dispensaries has drawn resistance from the operators, city officials, and ASA. In December, the City of Oakland took the unprecedented step of intervening in a federal forfeiture proceeding targeting Harborside Health Center, arguing its closure would jeopardize the public welfare and cause economic harm. ASA is fighting the Harborside forfeiture proceeding on behalf of affected patients.

In June, advocates rallied in Sacramento to protest a federal raid on El Camino Wellness Center, a unionized dispensary licensed by the city. Oakland rallies in April and October drew hundreds to City Hall and Obama Campaign headquarters. Federal actions that have shut nine dispensaries in San Francisco also triggered a rally and official protests.

## ACTION ALERT: Join ASA Today!

ASA's historic work depends on the support of people like you. Join or renew your membership today! Then find your local ASA chapter and become part of the grassroots movement for safe access. Join today or get more info at [AmericansForSafeAccess.org/join](http://AmericansForSafeAccess.org/join).

## Become a Member

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### Attorney General Denies Reality of Raids

Attorney General Eric Holder faced tough questions before the House Judiciary Committee at the beginning of June over the crack-down on state medical cannabis programs. Pressed by several Representatives on why there have been more than 200 federal raids on state-authorized medical cannabis providers since 2009, given that President Obama had promised he wouldn't use "Justice Department resources to try to circumvent state laws on this issue," Holder flatly denied anyone in compliance had been targeted.