



Americans for Safe Access

Activist Newsletter

Defending Patients' Access to Medical Marijuana

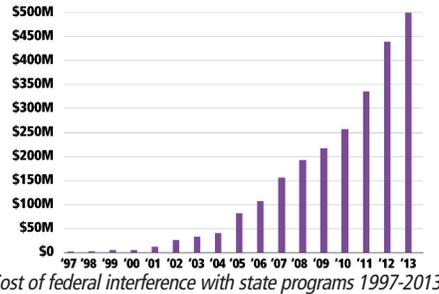
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Justice Department Reverses Policy on Cannabis Businesses

On August 29, the U.S. Department of Justice issued new guidance to federal prosecutors, telling them medical cannabis dispensaries should no longer automatically be considered targets for prosecution. The memo from Deputy Attorney General James M. Cole to all U.S. Attorneys reverses previous policy, which had said anything involving more than an individual patient or caregiver was worth pursuing, regardless of whether those involved were compliant with state medical cannabis laws.

That previous policy had prompted several U.S. Attorneys to threaten elected state officials and state employees with criminal prosecution or civil asset forfeiture or both if they implemented regulations or licensing for distributing medical cannabis to patients as part of state law. As a result, several states suspended implementation of dispensary regulations, and



Cost of federal interference with state programs 1997-2013

Washington's governor cited those threats when she vetoed a licensing system for dispensaries in 2011. The new guidance from DOJ says the opposite: state and local officials can only avoid federal interference if they "implement strong and effective regulatory and

enforcement systems" that reflect what it lists as eight federal enforcement priorities.

"Respect for state cannabis laws and local enforcement is what this Administration has promised from the beginning, and we hope federal prosecutors take the new DOJ memo to heart," said ASA Executive Director Steph Sherer. "But the President can do much more to stop the wasteful, unjust interference with medical cannabis laws, including supporting the bipartisan efforts in Congress."

Part of the regulatory framework the DOJ says it wants to see is control over how money is

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DELAWARE ADVANCES ON DISPENSARY PLAN

DE Delaware got the jump on the Department of Justice announcement on medical cannabis, when its governor announced the day before that he was endorsing a dispensary program despite threats from federal prosecutors.

The move came more than two years after Gov. Jack Markell suspended implementation of Delaware's medical marijuana program over warnings from the Department of Justice that state officials could be subject to prosecution. The state currently has more than 20 registered patients but no approved means of distribution.

The state will begin the process next year of finding an operator for a single "compassion center" which would cultivate and distribute cannabis to registered patients, though the 2011 bill mandated a dispensary in each of the state's three counties. Centers will be limited to 150 plants and no more than 1,500 ounces of medicine.

"The sensible and humane aim of state policy in Delaware remains to ensure that medical marijuana is accessible via a safe, well-regulated channel of distribution to patients with demonstrated medical need," Markell said in announcing the plan.

New Policy on Sentencing, Compassionate Release

More medical cannabis prisoners may see freedom soon, if the Department of Justice makes good on a new strategy outlined by U.S. Attorney General Eric Holder last month. Speaking at the annual meeting of the American Bar Association, Holder said that the Department of Justice is "considering compassionate release for inmates facing extraordinary or compelling circumstances" and decried the indiscriminate use of mandatory minimum sentencing for nonviolent offenders.



Eric Holder

though he is a seriously ill kidney-pancreas transplant patient registered with the Michigan program. Incarcerating him in a federal medical prison is expected to cost U.S. taxpayers more than \$1.2 million.

"Imprisoning patients such as Jerry Duval is both extraordinarily expensive and shockingly unjust," said ASA Executive Director Steph Sherer. "We urge Attorney General Holder to facilitate the compassionate release of all non-violent federal medical cannabis prisoners."

More than two-dozen medical cannabis patients and providers are serving federal sentences despite being in compliance with the laws of their respective states. Among these prisoners is Jerry Duval, recently sentenced to a mandatory minimum of ten years in federal prison for cultivating medical cannabis, even

ASA estimates the cost of the federal government's interference with state medical cannabis programs at \$500 million and rising.

Massachusetts on Track to Open Dispensaries by 2014

MA Qualified patients in Massachusetts should be able to obtain their medicine in licensed dispensaries by the new year, if the Department of Public Health (DPH) stays on its implementation schedule. Last month marked the end of Phase I for applications to operate a Registered Marijuana Dispensary (RMD) in the state, and DPH has several applicants.

step closer to safely accessing their medicine."

Under the Massachusetts program, RMDs must cultivate the medicine they provide to patients. In the first year of the program, DPH may approve up to 35 applications, with at least one dispensary in each of the state's 14 counties, and a maximum of five locations per county. DPH can increase that number if it determines patient demand warrants more.

"The department continues to demonstrate a commitment to patient needs by moving forward quickly and thoughtfully with the process," said Matthew J. Allen, Executive Director of the Massachusetts Patient Advocacy Alliance, "Today patients are one

DPH has set a tentative date of Sept. 18 to announce which applicants are eligible for Phase II of the process. An information session on Phase II has been set for Sept. 20, from 10am-1pm at a location to be announced.

Illinois Implementation Conference a Success

IL ASA and Local 881 of the United Food and Commercial Workers (UFCW) union sponsored a conference in Chicago last month to review Illinois' new law and plan for implementation.

The free conference brought together patients, caregivers, lab experts, and dispensary operators and workers to consider the rights and responsibilities HB1, the Illinois "Compassionate Use of Medical Cannabis Pilot Program" Act, establishes and what needs to be done to ensure the law will work and be renewed. HB1 takes effect January 1, 2014 and expires in four years.

"Passing a law is just the first step in ensuring safe and legal access," said ASA Executive



Steph Sherer

Director Steph Sherer, who presented at the conference. "Stakeholders have to come together to ensure the law is implemented with patients needs in mind."

HB1, which passed the Illinois House in April and the Senate in May, creates a framework to protect physicians and qualified medical cannabis patients from arrest and prosecution. HB1 specifies 33 debilitating medical conditions for which patients may obtain approval from a physician to use medical cannabis. Qualifying patients may possess up to 2.5 ounces which must be obtained from one of what are slated to be 60 "registered dispensing organizations."

DOJ MEMO continued from page 1

handled, but for the last several years the DOJ has systematically blocked dispensary access to banking and credit card processing, and earlier in the month the Drug Enforcement Administration, a branch of the DOJ, told armored car companies they cannot service dispensaries or other medical cannabis businesses. When questioned about it by the media, a DOJ official who insisted on anonymity said Attorney General Holder told the governors of medical cannabis states on a conference call last Thursday that the DOJ is "actively considering" how to handle banking. The official told the Huffington Post that banks are unlikely to be prosecuted for money laundering if they provide services to state-licensed businesses.

The memo does not change any law, nor does it preclude prosecution of any individual or business, as the U.S. Attorneys' offices are autonomous, and prosecutors make independent decisions about which cases to pursue. A spokesperson for U.S. Attorney for the Northern District of California Melinda Haag, who has been relentless in trying to shut down two of the largest and most respected dispensaries in the country, said the memo would have no effect on their efforts. Both dispensaries have complied with state and local regulations and have the support of elected officials. Threats of criminal prosecution and asset forfeiture by U.S. Attorneys have closed more than 600 dispensaries in California, Colorado and Washington over the past two years, even though no state law violations were alleged.

The latest memo is the first official federal response to initiatives approved last November by voters in Colorado and Washington that made cannabis possession and use legal for all adults. The memo states the DOJ will not attempt to challenge those laws directly at this time. The DOJ has never attempted to challenge any medical cannabis laws, though the government tried to overturn Oregon's assisted suicide statute as a violation of the federal Controlled Substances Act, but that was rejected by the U.S. Supreme Court in 2009 when the court ruled in *Gonzales v. Oregon* that the CSA cannot preempt state laws unless there is a "positive conflict" in which state law required actions specifically prohibited by federal law.

Dr. Gupta Sorry for Misleading Public about Cannabis

One of nation's most well-known and respected physicians, the neurosurgeon Dr. Sanjay Gupta, apologized repeatedly last month for being part of "systematically misleading" the American public on the dangers and benefits of medical cannabis. The public apologies were part of both television interviews and an essay he published in advance of his CNN documentary on medical cannabis that featured reporting from around the world.

"I mistakenly believed the Drug Enforcement Agency listed marijuana as a schedule 1 substance because of sound scientific proof," Dr. Gupta wrote. "They didn't have the science to support that claim, and I now know that when it comes to marijuana neither of those things are true. It doesn't have a high potential for

abuse, and there are very legitimate medical applications. In fact, sometimes marijuana is the only thing that works."

ASA, which is currently appealing to the US Supreme Court the DEA's rejection of the latest rescheduling petition on cannabis, hosted an online event following the documentary. Featuring many of the same guests, as well as additional experts in the medical cannabis field, that follow-up expanded on why Dr. Gupta now says it is "irresponsible" to deny patients access to medical cannabis. The ASA event is archived on the ASA YouTube page.

In 2009, Dr. Gupta was the leading candidate to become President Obama's first Surgeon General until he withdrew from consideration.

Both Colorado and Washington have separate, long-standing medical cannabis programs. Currently 20 states and the District of Columbia allow medical cannabis use, and many of those states have or are instituting regulated systems for distribution that mandate large-scale operations, despite the prior federal threats.

Deputy AG Cole, who authored the latest guidance, also authored the 2011 memo that walked back the DOJ's 2009 directive from that had said it would not be a wise use of resources to prosecute individuals in compliance with state medical cannabis laws. ASA estimates the federal government has expended over \$500 million to block the implementation of state medical cannabis laws.

ACTION ALERT—Tell Congress the Time is Now!

The DOJ's shift in policy on state medical cannabis programs is a step in the right direction, but it changes no law and protects no patients. Now is the time to ask Congress to resolve the conflict between prohibition and compassion for good. HR 689, the States' Medical Marijuana Patient Protections Act, will move cannabis out of Schedule 1 of the Controlled Substances Act and allow for more medical research.

Go to AmericansForSafeAccess.org/ActNow today to urge your Representative to cosponsor HR 689 for real change!

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