The Vermont Legislative Research Shop

The Legalization of Marijuana for Medical Use

There is currently a battle between state laws and federal regulations concerning the medical use of marijuana. Nine states have laws legalizing medical marijuana, and many others, including Vermont have pending legislation concerning the legalization of marijuana for medical purposes; while federal law classifies marijuana as a Schedule I drug barring its use for medical purposes. The Supreme Court has ruled in favor of the federal government in this conflict, leaving medical marijuana illegal in the entire United States.

The Supreme Court

In 2001, the Supreme Court unanimously decided in *United States v. Oakland Cannabis Buyers' Cooperative* (No. 00-151 [2001]) that the use of marijuana for medical purposes violates the Controlled Substances Act of 1970. This Act bans the manufacture and distribution of marijuana and classifies marijuana as a Schedule I drug, which is the most restrictive regulation of an illegal drug. One of the criteria for being classified as a Schedule I drug is that there is no medical use for it; thus, the current law, as written, does not recognize any medical use for marijuana (Werner 2001).

The Federal Government

The Federal Government recently approved clinical trials for scientists at the University of California's Center for Medicinal Cannabis Research to determine whether medical marijuana can help patients who are HIV-infected and patients with multiple sclerosis by easing pain or treating nausea. The Federal Government has even agreed to supply the marijuana. The National Institute of Drug Abuse has the only legal source of marijuana in the United States; they

e initiative process.

Although they vary slightly, most of the laws protect the use of marijuana for the following illnesses: cachexia, cancer, chronic pain, chronic nervous system disorders, epilepsy, glaucoma, HIV or AIDS, and multiple sclerosis.

Alaska and Hawaii established laws that require patients seekin[illegible] e law to enroll in *mandatory* state registry programs. Those not enrolled [illegible] d in the courts by arguments of medical necessity. Colorado, Nevada, a[illegible] blish *optional* state registry programs. Any person wishing to be prote[illegible] nust enroll. Those choosing not to enroll in the program are not provided wit[illegible] t are allowed to argue an "affirmative defense of medical necessity." [illegible] ia legislation is similar in that both provide patients with legal protection upon [illegible] ritten recommendation that marijuana use might benefit a patient's cond[illegible] state law requires that patients possess "valid documentation" that medical [illegible] eigh any health risks. Arizona's law was written with the intent to allow do[illegible] marijuana as well as other Schedule 1 narcotics. As federal law prohibits doctor[illegible] g these [illegible] have made prescriptions to their patients to u[illegible] tional [illegible] 2001).

of Health to give broad based exemptions to the law, without any transparency or defined guidelines for what constitutes medical necessity. Following the court ruling, Health Canada developed a regulatory process for the use of medicinal marijuana. This process functions similar to the laws of Alaska and Hawaii where those seeking to use marijuana therapy must register with a state medical organization (Health Canada 2001).

The Medical Community

In January 1997, the Office of National Drug Control Policy (ONDCP) commissioned the Institute of Medicine, a congressionally chartered medical organization, to serve as a mediator between those who dismiss medical marijuana use and others who have deemed it as a cure-all drug (Institute of Medicine 1999). It has been deemed by the Institute of Medicine that marijuana's benefits have been limited to primarily symptom relief, and alternatives in medicine have be proven to be more effective (Annas 1997). The Institute of Medicine found only weak support for marijuana's effectiveness in treating the symptoms of glaucoma, multiple sclerosis, migraines, or movement disorders, which include Parkinson's and Huntington's disease (Institute of Medicine 1999).

Tetrahydrocannibinol, or THC, the active ingredient in marijuana is, however, currently available in a pill form called Marinol. Marinol has been approved for the nausea brought on by chemotherapy and for wasting associated with AIDS (New England Journal of Medicine 1996). The cannabinoids found in Marinol have been proved to be successful where alternative medications have failed (Institute of Medicine 1999). One argument against this form of THC intake is that 3 to 10 percent of patients who are prescribed the drug suffer from abdominal pain, nausea and vomiting, and cannot keep the pill down (Schaffer Library of Drug Policy 1994). THC's usage in pain treatment remains controversial due to the fact that human studies remain inconclusive.

Another chemical found in marijuana, Cannabidol has been deemed by the National Institute of Health as a drug that could potentially be capable of protecting individuals from brain damage caused by strokes. The research, however, has indicated that smoking marijuana will most likely not provide an adequate dose of the compound (Wozincki 1999).

The IOM noted that there are many promising prospects for marijuana drug development. Research has indicated that there are a variety of cellular and brain pathways through which therapeutic drugs could act on cannaboid receptor systems, thus creating an effective medicinal use for the drug (Institute of Medicine 1999).

Currently, the American Medical Association's position regarding medical marijuana is that they believe there needs to be more studies conducted regarding the overall medical benefit of marijuana (O'Connor 1999).

See a summary of the 1999 Institute of Medicine report, in the Journal of the American Medical Association v.57 n.6, June 2000, for more information.

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Completed by Erik Weibust, Lauren Haymond and Charles Megivern under the supervision of Professor Anthony Gierzynski on March 6, 2002.