

---

## Guest editorial

# The latest buzz on medicinal marijuana: A legal and medical perspective

Jeffrey J. Steinborn, LLb  
Alison K. Chinn, JD  
Gregory T. Carter, MD

This past May, the United States Supreme Court ruled, in *United States v. the Oakland Cannabis Buyers' Cooperative* (Federal Case No. 00-151, May 2001), that "medical necessity" was not a legal defense to the manufacture or distribution of marijuana and the federal law classifying marijuana as illegal has no exception for ill patients. In writing his opinion, Justice Clarence Thomas stated, "marijuana has no currently accepted medical use." This ruling brought much angst to many ill people currently using medicinal marijuana. Fortunately, for those living in states that allow the use of medicinal marijuana, this ruling does not overturn these

state laws. This case dealt exclusively with federal law and was limited to distribution issues. State and local officials make nearly all of the roughly 750,000 annual marijuana arrests in the United States. Thus, these local state laws would still protect medicinal users in those states that have adopted laws permitting the medical use of marijuana. States are not required to have laws that are identical to federal law, neither are they required to enforce federal laws.

Marijuana is a substance with many well-documented beneficial, medicinal properties, including analgesia, muscle relaxation, bronchodilation, appetite stimulation, and sleep induction, among others.<sup>1-11</sup> Marijuana has remarkably low toxicity and lethal doses in humans have not been described. This is in stark contrast to a number of commonly prescribed medications used for similar purposes, including opiates, anti-emetics, anti-depressants, and muscle relaxants, not

to mention legal substances used recreationally, including tobacco and alcohol.

Arguably, marijuana is neither a miracle compound nor the answer to everyone's ills. Yet it is not a compound that deserves the tremendous legal and societal commotion that has occurred over it. In 1937, all use of marijuana was criminalized, against the advice of the medical community, including the American Medical Society. Prior to this, marijuana was legal and used frequently for medicinal purposes without apparent ill effect on society as a whole. Hemp, the male marijuana plant, was temporarily legalized and used productively in World War II to make rope and clothing. The hemp industry still thrives, but hemp used in the United States is now produced in other countries, such as China and Hungary. The Nixon-appointed Shaffer Commission actually recommended that marijuana be re-legalized in 1972.

---

Jeffrey J. Steinborn, LLb, Attorney, Seattle, Washington.

Alison K. Chinn, JD, Attorney, Seattle, Washington.

Gregory T. Carter, MD, Clinical Associate Professor of Rehabilitation Medicine, University of Washington, School of Medicine, Seattle, Washington.

Over the past 30 years, the United States has spent billions in an effort to stem the use of illicit drugs, including marijuana, with limited success. Some very ill people have had to fight long court battles to defend themselves for the use of a compound that has helped them. There is no evidence that recreational marijuana use is any higher in states that allow for its medicinal use. Moreover, prohibition strategies have never proven terribly effective at limiting the use of a substance for any reason, whether alcohol or other compounds. Rational minds need to take over the war on drugs, separating myth from fact, right from wrong, and responsible, medicinal use from other, less compelling usage.

The purpose of this editorial is not to discuss the pros and cons of medicinal versus recreational marijuana use. That is a totally separate and altogether different topic. However, in our opinion, the medicinal marijuana user should not be considered a criminal in any state. Most major medical groups, including the Institute of Medicine (IOM), agree that marijuana is a compound with significant therapeutic potential.<sup>1</sup> Over a decade ago, the Drug Enforcement Administration (DEA) studied the medicinal properties of cannabis. After considerable study, Administrative Law Judge Francis L. Young concluded that, "the evidence clearly shows that marijuana is capable of relieving the distress of great numbers of very ill people, and doing so with safety under medical supervision...it would be unreasonable, arbitrary and capricious for the DEA to continue to stand between those sufferers and the benefits of this substance."<sup>12</sup> Despite this conclusion, over a decade later, the DEA and the rest of the federal government persist in their policy of total prohibition. The scientific process continues to evaluate the therapeutic effects of marijuana through ongoing research and assessment of available data. With

regard to the medicinal use of marijuana, our legal system should take a similar approach, using science and logic as the basis of policy-making, rather than political views and societal trends that are more reflective of the ongoing debate over any potential harmful effects of recreational marijuana use.

We conclude with some precautionary advice. For the present, physicians must take special care when discussing medicinal marijuana with their patients and be sure they understand the state and local laws governing what physicians can safely say and what patients can legally possess and use. As with any medication, proper documentation of the risks and benefits and any other requirements mandated by local laws must be clearly noted in the medical record. Physicians must be careful not to let their enthusiasm, frustration, and concern for suffering cause them to be careless when taking advantage of any law allowing their patients to use medicinal marijuana. Physicians who frequently authorize the therapeutic use of marijuana potentially could be investigated by authorities for compliance with the law, even in the form of an undercover agent disguised as a patient. Fortunately, despite threats from former "drug czar" Barry McCaffrey and former Attorney General Janet Reno, no physician has yet lost his or her license to prescribe medications or been federally prosecuted for authorizing the medicinal use of marijuana. At the state level, compliance with the terms of the local law allowing medicinal use of marijuana continues to protect the physician who authorizes such use to alleviate suffering.

## References

1. Institute of Medicine, Division of Health Sciences Policy: *Marijuana and Health: Report of a Study by a Committee of the Institute of Medicine, Division of Health Sciences Policy*. Washington, DC: National Academy Press, 1982.

2. Beal JE, Olson DO, Laubenstein L, et al.: Dronabinol as a treatment for anorexia associated with weight loss in patients with AIDS. *J Pain & Symptom Manage*. 1995; 10: 89-97.
3. Nelson K, Walsh D, Deeter P, Sheehan F: A phase II study of delta-9-tetrahydrocannabinol for appetite stimulation in cancer-associated anorexia. *J Palliat Care*. 1994; 10(1): 14-18.
4. Pertwee RG: Cannabinoid receptor ligands: Clinical and neuropharmacological considerations, relevant to future drug discovery and development. *Expert Opin Investig Drugs*. July 2000; 9(7): 1553-1571.
5. DiMarzo V, Bisogno T, de Petrocellis L: Endocannabinoids: New targets for drug development. *Curr Pharm Des*. September 2000; 6(13): 1361-1380.
6. Meng ID, Manning BH, Martin WJ, Fields HL: An analgesia circuit activated by cannabinoids. *Nature*. September 1998; 395(6700): 381-383.
7. Richardson JD: Cannabinoids modulate pain by multiple mechanisms of action. *J Pain*. 2000; 1(1): 1-20.
8. Meinck HM, Schonle PW, Conrad B: Effects of cannabinoids on spasticity and ataxia in multiple sclerosis. *J Neurol*. 1989; 263(2): 120-122.
9. Hampson AJ, Grimaldi M, Axelrod J, Wink D: Cannabidiol and delta-9-tetrahydrocannabinol are neuroprotective antioxidants. *Proc Nat Acad Sci (USA)* July 1998; 95(14): 8268-8273
10. Chen Y, Buck J: Cannabinoids protect cells from oxidative cell death: A receptor-independent mechanism. *J Pharmacol Exp Ther*. June 2000; 293(3): 807-812.
11. Carter GT, Rosen BS: Marijuana in the management of ankyrotrophic lateral sclerosis. *American J Hospice & Palliative Care*. July/August 2001; 18(4): 264-270.
12. United States Department of Justice, Drug Enforcement Administration: *In the matter of marijuana rescheduling petition: Opinion and recommended ruling, findings of fact, conclusions of law and decision of administrative law judge*. September 6, 1988; Docket No. 86-22: pp. 67-68.