

**Office of the District Attorney  
County of Tulare**

**Phil Cline  
District Attorney**

**Date: February 25, 1997**

**To: Tulare County Law Enforcement**

**From: Phillip J. Cline**

**Subject: "Medical" Marijuana**

Health and Safety Code Section 11362.5 was added by the initiative process at the November 5, 1996 general election. The intent of the statute is to provide two affirmative defenses for three classes of persons: physicians, patients and "primary caregivers."

**Section 11362.5 (c):**

"Notwithstanding any other provision of law, no physician in this state shall be punished, or denied any right or privilege, for having recommended marijuana to a patient for medical purposes." (emphasis added)

**Section 11362.5 (d):**

"Section 11357, relating to the possession of marijuana, and Sec. 11358, relating to cultivating marijuana, shall not apply to a patient, or to a patient's primary caregiver." (emphasis added)

Notwithstanding the availability of potential affirmative defenses of (1) prescribing marijuana, and (2) growing "medical" marijuana, your agency should pursue the investigation and arrest of persons who violate marijuana laws.

Attached is a form to assist in the investigation of such violations. In cases where the above law is claimed as a defense, the name of all involved medical personnel/ caregivers should be obtained, along with specific facts as to the claimed defense, and the "Authorization for Release of Medical Information" form signed. If the person refuses to sign, indicate the same on the form and in the investigation report.

Also attached is a table of affected Health and Safety Code Sections produced by the Attorney General's Office.

If you have questions or comments contact Deputy D.A. Doug Squires.

# AUTHORIZATION FOR RELEASE OF MEDICAL INFORMATION

TO: ALL PHYSICIANS, CAREGIVERS, HEALTH CARE  
PROFESSIONALS AND FACILITIES

I hereby authorize and request that you furnish

\_\_\_\_\_ all medical and psychiatric  
(law enforcement agency)  
records and reports including all information regarding hospitalization,  
medical history, patient requests and statements, prescriptions, medical  
history, physical condition, diagnosis, and treatment concerning or related to  
me.

All provisions of the law to the contrary are waived.

A photocopy of this authorization shall be deemed valid as the  
original.

Date of Birth: \_\_\_\_\_

Social Security Number: \_\_\_\_\_

Dated: \_\_\_\_\_

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Signature)

# Judge moves to protect doctors who prescribe pot

By Claire Cooper  
Bee Legal Affairs Writer

SAN FRANCISCO — U.S. District Judge Fern Smith on Friday barred federal drug and justice authorities from punishing California doctors who recommend marijuana to their "bona fide patients."

Smith issued the temporary restraining order after the government denied her request not to prosecute doctors or revoke their prescription licenses during negotiations on a lawsuit filed under Proposition 215, the medical marijuana initiative approved by California voters last November. Proposition 215 made it legal for serious patients to possess marijuana as medicine upon a physician's recommendation. Various cannabis retail outlets, attempting to stay within the new state law, have required medical recommendation or verification before selling the drug.

Smith's order will remain in place until clear guidelines for doctors are agreed to by

the government and lawyers representing a group of doctors and patients, or until those negotiations fail and Smith takes up the case again. A settlement conference is set for Thursday.

The government will not be permitted to act against doctors whose current conduct is found to violate policy adopted later.

Last December, Thomas Constantine, administrator of the U.S. Drug Enforcement Administration, threatened "very, very serious action" against doctors recommending pot, and White House drug czar Barry McCaffrey announced a variety of sanctions that would be used, including prosecution from federal medical-care programs.

In February, federal narcotics agents began investigating Dr. Robert Mastrotanni, a Pollock Pines doctor who recommended marijuana to three patients — apparently the only concrete anti-Proposition 215 enforcement action so far.

A couple of weeks later, federal health

and justice officials advised the California Medical Association that doctors were free to discuss the risks and benefits of pot with their patients but could do nothing to help them get the drug.

In a hearing Friday, Smith said the government's position was "on shifting sands." She pressed U.S. Department of Justice lawyer Kathleen Mueller to draw a clear line between a legal discussion of pot and an impermissible recommendation.

Mueller said doctors would know where the line was when they were prosecuted for crossing it.

But Smith said, "Doctors shouldn't have to be careful about what they say and modify it because they don't know whether they're breaking the law."

There's "at least a serious question," she said, whether the government is violating doctors' First Amendment rights by forcing them to censor themselves and patients' First Amendment rights by "impinging up-

on their ability to receive open and honest medical advice."

Mueller objected that if doctors were allowed to recommend marijuana and relay the recommendations on their charts, patients could use copies of the charts to the drug under Proposition 215.

Doctors have no First Amendment right to give medical advice about an illegal drug, she said. "The government is not regulating the speech," she said. "It's regulating profession."

But Smith noted that "some prestigious organizations" recently have acknowledged that marijuana may be useful as medicine.

Doctors named as plaintiffs in the suit are AIDS and cancer specialists. Patient plaintiffs are under treatment for AIDS, cancer and epilepsy. Marijuana may be useful in treating symptoms of those

cases. The federal government has begun to discuss the design for a controlled substance, Mueller said.

CBC - Los Angeles

(SAMPLE Physician's Letter - Print on Dr.'s letterhead)

Please WRITE ON DR LETTER HEAD  
To whom it may concern, AND FAX TO - 213 874.42

This is to certify that Willie Perkins  
is currently under my care and medical supervision for  
the treatment of HIV+ / weight loss

This patient reports that cannabis/marijuana is  
providing otherwise unattainable relief from his/her  
symptoms. I have no objection him/her using marijuana  
for this purpose.

Please provide this patient with whatever  
information and assistance possible.

Thank You,

RECEIVED OK PER-DR PERSONALLY B2 12-31-96  
Date 11/18/96

Physician's Signature [Signature]

Print Name KEITH BECK MD

Address 1000 W. Carson St. (Harbor UCLA Medical Center)

City, State, Zip Torrance CA 90509

Telephone ~~213-413-6084~~ <sup>FD</sup> 310-222-2467

I THINK THIS IS FILLED OUT BY WILLIE

Post-It* Fax Note	7671	Date	4-8-97	# of pages	1
To	JOHN GORDINER	From	SISAN ZIMMER		
Co./Dept.		Co.			
Phone #		Phone #	(213) 485-5474		
Fax #	(916) 324-2960	Fax #			

AMENDED IN SENATE MARCH 31, 1997

**SENATE BILL**

**No. 535**

**Introduced by Senator Vasconcellos**

February 24, 1997

---

An act to add Sections 11362.51, 11362.53, 11362.55, 11362.57, 11362.59, and 11362.62 to the Health and Safety Code, relating to marijuana, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 535, as amended, Vasconcellos. Marijuana: implementation.

Existing law, the Compassionate Use Act of 1996, prohibits any physician from being punished, or denied any right or privilege, for having recommended marijuana to a patient for medical purposes. The act prohibits the provisions of law making unlawful the possession or cultivation of marijuana from applying to a patient, or to a patient's primary caregiver, who possesses or cultivates marijuana for the personal medical purposes of the patient upon the written or oral recommendation or approval of a physician. Existing law establishes a Research Advisory Panel to study and approve research projects concerning marijuana or hallucinogenic drugs.

This bill would define, for purposes of the act, the phrases "physician" and "not subject to criminal prosecution."

The bill would expressly prohibit the act from being construed to supersede or conflict with laws in force prior to November 6, 1996, relating to state or local smoking laws or

h laws relating to engaging in conduct that endangers  
 ers.  
 he bill would prohibit a physician from recommending or  
 proving the use of medical marijuana by an unemancipated  
 nor, unless the physician explains the possible risks and  
 efits to at least one of the minor's parents or guardians and  
 parent or guardian makes an acknowledgement in  
 iting.

The bill would authorize the University of California to  
 ate a California Medical Marijuana Research Center to  
 velop and implement a medical marijuana study studies  
 to solicit proposals for research projects to be included in  
 study studies. The bill would authorize the center to raise  
 ds and to include other research projects in the study  
 dies.

The bill would appropriate \$6,000,000 from the General  
 nd to the center to conduct the study; and would require  
 center to expend \$2,000,000 for the 1st year of the study;  
 00,000 for the 2nd year of the study; and \$2,000,000 for the  
 year of the study studies.

The bill would establish the Medical Marijuana Distribution  
 tem Task Force to research and design a statewide plan to  
 vide for the safe and affordable distribution of marijuana  
 ill patients in medical need of marijuana. The bill would set  
 th the membership of the task force and would appropriate  
 0,000 from the General Fund to the task force.  
 he bill would state that it is to take effect immediately as  
 urgency statute.

ote: <sup>2</sup>/<sub>3</sub>. Appropriation: yes. Fiscal committee: yes.  
 te-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. This act shall be known and may be cited  
 as the Proposition 215 Implementation Act of 1997.

SEC. 2. (a) It is the intent of the Legislature that  
 Proposition 215, as approved by the voters on November  
 5, 1996, be implemented expeditiously and in a manner  
 that is consistent with the understanding of the voters of  
 California of the purpose and intent of the measure. It is

1 the intent of the Legislature to enact this act by urgency  
 2 in order to ensure that the Legislature keeps the faith and  
 3 will of the people and addresses the immediate needs of  
 4 Californians who have a legitimate medical use for  
 5 marijuana.

6 (b) The Legislature finds and declares that by their  
 7 approval of Proposition 215, California voters affirmed all  
 8 of the following:

9 (1) Medical marijuana is a drug with appropriate uses  
 10 for the treatment of thousands of Californians suffering  
 11 from serious illnesses.

12 (2) Physician-recommended use of medical marijuana  
 13 is a health issue and not a criminal justice issue.

14 (3) Patients who use medical marijuana in a manner  
 15 consistent with the measure are not criminals and must  
 16 not be treated as such.

17 (4) California should develop a method for the safe,  
 18 affordable distribution of medical marijuana to all  
 19 patients in need of it.

20 (c) The Legislature also finds and declares all of the  
 21 following:

22 (1) In order to ensure that patients who use medical  
 23 marijuana in a manner consistent with the measure are  
 24 not treated as criminals, the Legislature must clarify  
 25 certain aspects of the measure, because the only  
 26 alternative is to leave important terms of the measure  
 27 undefined.

28 (2) The greatest obstacle to patient access to medical  
 29 marijuana in cases where it is medically appropriate is  
 30 reticence on the part of some licensed physicians and  
 31 surgeons to recommend it to seriously ill patients for the  
 32 following reasons:

33 (A) There is a need for more, scientific research on the  
 34 appropriate uses of medical marijuana.

35 (B) Physicians fear federal or state retribution for  
 36 recommending or approving patient use of medical  
 37 marijuana.

38 (3) The federal government has failed to conform its  
 39 medical marijuana policy to the desires of the Legislature,  
 40 as expressed in Resolution Chapter 70 of the Statutes of

1 1993, and, therefore, the implementation of Proposition  
2 215 is an urgent issue for the health and safety of suffering  
3 Californians.

4 (4) The Legislature agrees with the article printed in  
5 the January 1997 issue of the New England Journal of  
6 Medicine entitled "Federal Foolishness."

7 (d) The Legislature hereby acts to resolve these  
8 impediments to the implementation of Proposition 215.

9 SEC. 3. Section 11362.51 is added to the Health and  
0 Safety Code, to read:

1 11362.51. For purposes of Section 11362.5, the  
2 following terms shall have the following meanings:

3 (a) "Physician" means a licensed physician and  
4 surgeon by the state.

5 (b) "Not subject to criminal prosecution" means that  
6 a person charged with an offense under this article shall  
7 have the right to have the claim of medicinal use of  
8 marijuana, pursuant to Section 11362.5, determined at a  
9 pretrial hearing, and shall retain the right to claim  
0 medicinal use of marijuana at any subsequent hearing.

1 SEC. 4. Section 11362.53 is added to the Health and  
2 Safety Code, to read:

3 11362.53. Section 11362.5 shall not be construed either  
4 to supersede or to conflict with state or local smoking laws  
5 in force prior to November 6, 1996.

6 SEC. 5. Section 11362.55 is added to the Health and  
7 Safety Code, to read:

8 11362.55. Section 11362.5 shall not be construed to  
9 supersede or to conflict with laws prohibiting persons  
0 from engaging in conduct that endangers others.

1 SEC. 6. Section 11362.57 is added to the Health and  
2 Safety Code, to read:

3 11362.57. For purposes of Section 11362.5, no  
4 physician shall recommend or approve use of medical  
5 marijuana by an unemancipated minor unless both of the  
6 following requirements are met:

7 (a) The physician explains the possible risks and  
8 benefits of the use to the minor and to at least one of the  
9 minor's parents or guardians.

1 (b) The parent or guardian has acknowledged in  
2 writing that he or she understands the possible risks and  
3 benefits.

4 SEC. 7. Section 11362.59 is added to the Health and  
5 Safety Code, to read:

6 11362.59. (a) The University of California shall create  
7 a Medical Marijuana Research Center that shall develop  
8 and implement a medical marijuana study medical  
9 marijuana studies intended to ascertain the general  
0 medical safety and efficacy of marijuana and to develop  
1 medical guidelines for the use of marijuana. The center  
2 shall include the following elements:

3 (1) Key personnel including clinicians or scientists and  
4 support personnel, who are prepared to develop a  
5 program of research on potential uses of medical  
6 marijuana.

7 (2) Procedures for outreach to patients with various  
8 medical conditions that may be suitable participants in  
9 research on medical marijuana.

0 (3) A patient registry.

1 (4) An information system that is designed to record  
2 information about possible study participants,  
3 investigators, and clinicians, and deposit and analyze data  
4 that accrues as part of clinical trials.

5 (5) Protocols suitable for research on medicinal  
6 marijuana addressing several diseases for which evidence  
7 exists that marijuana may be useful, including, but not  
8 limited to, wasting in AIDS, painful peripheral  
9 neuropathy in AIDS and other conditions, control of  
0 nausea and vomiting due to anticancer treatment,  
1 control of spasticity in conditions like multiple sclerosis,  
2 intraocular pressure in glaucoma, and seizure disorders.

3 (6) A specimen laboratory capable of housing plasma,  
4 urine, and other tissue specimens necessary to study the  
5 concentration of cannabinoids in various tissues, as well  
6 as housing specimens for related studies of possible toxic  
7 effects of medical marijuana.

8 (7) Establish a laboratory capable of analyzing  
9 marijuana for purity and cannabinoid content and the  
0 capacity to detect contaminants.

(b) The center may immediately solicit proposals for research projects to be included in the medical marijuana study studies. The center shall focus its efforts on medical indications where existing research shows marijuana use is most therapeutically promising.

(c) The medical marijuana study studies shall include the greatest amount of new scientific research possible on the medical uses of marijuana. The center shall consult with analogous agencies in other states in an attempt to avoid duplicative research and the wasting of research dollars.

(d) The medical marijuana study studies shall be designed to include the broadest variety of patients, physicians, and medical conditions as possible.

(e) The center shall make every effort to recruit patients and physicians from throughout the state for the medical marijuana study studies.

(f) The medical marijuana study studies shall employ state-of-the-art research methodologies.

(g) The center shall ensure that all medical marijuana used in the study studies is of the appropriate medical quality. The center may review, approve, or incorporate studies and research by independent groups presenting scientifically valid protocols for medical research regardless of whether the areas of study are being researched by the committee.

(h) Within six months of the operative date of this section, the center shall report to the Legislature on the progress of the medical marijuana study studies.

(i) Thereafter, the center shall issue a report to the Legislature every six months detailing the progress of the study studies. The interim reports shall include, but shall not be limited to, data on all of the following:

(1) The names and number of diseases or conditions under study studies.

(2) The number of patients enrolled in the study per disease.

(3) The patient dropout rate in each disease category.

(4) The reasons for patient withdrawal.

(5)

(3) Any scientifically valid preliminary findings.

(j) (1) To enhance understanding of the efficacy and adverse effects of marijuana as a pharmacological agent, the center shall conduct focused controlled clinical trials on the usefulness of marijuana in conditions such as chronic pain, including AIDS neuropathy, utility of marijuana in treatment of nausea related to chronic disease or antineoplastic chemotherapy, utility as an anticonvulsant, and usefulness in chronic incontinence (wasting), treatment of glaucoma, and other possible conditions. The trials shall focus on comparisons between routes of delivery, including inhalational and oral, and develop further information on pharmacokinetics; evaluate possible uses of marijuana as a primary or adjunctive treatment, and develop further information on optimal dosage, timing, mode of administration, and variations in effects of different cannabinoids and varieties of marijuana.

(2) The center shall examine the safety of medicinal marijuana in patients with various medical disorders, and long-term adverse consequences in long-term users, both medically sanctioned and recreational.

(3) Irrespective of whether medicinal marijuana is determined to be useful under certain circumstances because it is a psychoactive drug, society has a stake in preventing individuals, particularly children and adolescents, from experimenting with marijuana and becoming regular users. The center shall develop new and more targeted approaches, whose efficacy can be established, and thereby provide a scientific basis for efforts at prevention. The center shall take the lead in developing new treatment techniques directed at those who have become regular marijuana users, including marijuana's interaction with other drugs, relative safety of inhalation versus oral forms, and the effects on mental function in medically ill persons.

(k) The center shall no longer receive funding for the medical marijuana study studies after three years.

(l) In order to maximize the scope and size of the medical marijuana study, the center studies, the



California Medical Marijuana Research Center may do both of the following:

(1) Solicit, apply for, and accept funds from foundations, private individuals, and all other funding sources that can be used to expand the scope or timeframe of the medical marijuana study studies that are authorized under subdivision (a). In no case shall the center expend more than 5 percent of its allocated general fund funding in efforts to obtain money from outside sources.

(2) Include within the scope of the medical marijuana study studies other medical marijuana research projects that are independently funded and that meet the requirements set forth in subdivision (a).

(m) No provision of this section or Section 11352.62 shall apply to the University of California except to the extent that the Regents of the University of California, by appropriate resolution, make that provision applicable.

(n) It is the intent of the Legislature that the California Medical Marijuana Research Center (CMMRC) be established as follows:

(1) The CMMRC shall be centered at a University of California campus that has a core of faculty experienced in organizing multidisciplinary scientific endeavors and, in particular, strong experience in clinical trials involving psychopharmacologic agents. The campus at which the CMMRC is centered shall accommodate the administrative offices, including the director, as well as a data management unit, and facilities for storage of specimens.

(2) The scientific and clinical operations of the center shall occur partly at the campus where the center is located, and partly at other campuses, both University of California and non-University of California, that have clinicians or scientists with expertise to conduct the required studies. If more than one proposal for a CMMRC is submitted, criteria for selection shall include the elements listed in subdivision (a) of Section 11362.59 and, additionally shall give particular weight to the organizational plan, leadership qualities of the director,

1 and plans to involve investigators and patient populations from multiple sites.

(3) The funds received by the center shall be allocated to various research studies in accordance with a scientific plan developed by the group of investigators who wish to be part of the center. As the first wave of studies is completed, it is anticipated that the center will receive requests for funding of additional studies. These requests will be reviewed by a Council of Investigators consisting of senior scientists associated with the center, as well as by an advisory group of scientists and informed citizens.

(4) It is the intent of the Legislature that indirect cost recovery by the University of California shall be limited to a maximum of 15 percent of the annual state allocation to the CMMRC.

SEC. 8. Section 11362.62 is added to the Health and Safety Code, to read:

11362.62. (a) Pursuant to subparagraph (C) of paragraph (1) of subdivision (b) of Section 11362.5 and in keeping with the will of the voters, the Legislature hereby creates the Medical Marijuana Distribution System Task Force, which is charged with the research and design of a statewide plan to provide for the safe and affordable distribution of marijuana to all patients in medical need of marijuana. The task force shall analyze the attributes of public and private distribution systems and the attributes of existing means of distribution.

(b) In order to provide breadth of perspective and public credibility, the task force shall consist of 12 members broadly reflective of the general public of California, including ethnic minorities, women, and persons of varying economic levels.

(c) The membership of the task force shall include both of the following, or his or her designee:

(1) The Chair of the School of Pharmacy at the University of California, San Francisco.

(2) The Chair of the University of California at Davis, School of Agriculture.

(d) The Chancellor of the University of California, San Francisco shall serve as the chair of the task force.

(e) The Senate Committee on Rules shall appoint three citizen members. The Speaker of the Assembly shall appoint three citizen members.

(f) The Governor shall appoint the remaining three members and shall appoint the vice chair of the task force: (g) the following:

(1) Three University of California faculty members appointed by the President of the University of California. One appointee shall be an expert in pharmacology, one in agriculture, and one in medicine. The President shall appoint one of the three faculty members to chair the task force.

(2) Three citizen members appointed by the Governor, one from each of the following categories: organized physicians' societies or groups, law enforcement or criminologists, and the health care industry.

(3) Three citizen members appointed by the Senate Committee on Rules, one from each of the following categories: law enforcement or criminologist, medical marijuana patients, either past or present, and organized registered nurses' societies or groups.

(4) Three citizen members appointed by the Speaker of the Assembly, one from each of the following categories: medical marijuana patient advocates, medical marijuana patients, either past or present, and the judiciary.

(d) The Governor shall appoint the vice chair of the task force.

(e) The Director of the California Medical Marijuana Research Center shall serve as a nonvoting member to facilitate information transfer between the center and the task force.

(f) Each appointing authority shall make the required appointments within 30 days of the operative date of this section. The chair or his or her designee shall call the first meeting of the task force within 45 days of the operative date of this section.

(h) In making the appointments to the task force, each appointing authority is encouraged to appoint persons

from varying backgrounds to create a balanced task force. Each appointing authority shall appoint from the following categories, but shall appoint no more than one from any of the categories:

(1) Organized physicians' societies or groups.

(2) Organized registered nurses' societies or groups.

(3) The health care industry.

(4) Medical marijuana patients (either past or present).

(5) Medical marijuana patient advocates.

(6) The judiciary.

(7) Law enforcement.

(+)

(g) All members shall be appointed for a term of two years and shall serve without compensation.

(+)

(h) In the event of a resignation, the inability of a member to continue service, or other vacancy, a new member shall be appointed to the task force by the original appointing authority in accordance with the requirements applicable to an original appointment.

(+)

(i) Task force members shall be reimbursed for normal travel and per diem expenses required to attend meetings.

(+)

(j) The chairperson shall appoint a search committee reflective of the composition of the task force which shall in turn, make recommendations concerning selection of appropriate staff.

(+)

(k) The task force shall hold at least four public hearings per year to gather public input regarding a medical marijuana implementation system. The public hearings shall be held in different regions of the state in order to gather input from the largest number of citizens.

(+)

(l) The task force shall complete its work and report to the Legislature within two years of the first meeting

1 and shall provide the Legislature with an interim report  
2 of its progress within one year from that date.

3 ~~(e)~~

4 (m) The task force's report shall recommend to the  
5 Legislature a medical marijuana distribution system that  
6 meets the criteria outlined in Section 11362.5.

7 SEC. 9. The Legislature hereby appropriates six  
8 million dollars (\$6,000,000) from the General Fund to the  
9 California Medical Marijuana Research Center to  
10 conduct the medical marijuana study studies pursuant to  
11 Section 11352.59 of the Health and Safety Code. The  
12 center shall expend two million dollars (~~\$2,000,000~~) for  
13 the first year of the study, two million dollars (~~\$2,000,000~~)  
14 for the second year of the study, and two million dollars  
15 (~~\$2,000,000~~) for the third year of the study. It is the intent  
16 of the Legislature to appropriate a like amount through  
17 the budget process for the second and third year of the  
18 studies.

19 SEC. 10. The sum of one hundred forty thousand  
20 dollars (\$140,000) is hereby appropriated from the  
21 General Fund to the Medical Marijuana Distribution  
22 System Task Force for the purposes of Section 11352.62 of  
23 the Health and Safety Code. It is the intention of the  
24 Legislature to appropriate a like amount through the  
25 budget process for the second year of the task force.

26 SEC. 11. This act is an urgency statute necessary for  
27 the immediate preservation of the public peace, health,  
28 or safety within the meaning of Article IV of the  
29 Constitution and shall go into immediate effect. The facts  
30 constituting the necessity are:

31 In order to ensure that the Legislature keeps the faith  
32 and will of the people, and addresses the immediate  
33 needs of Californians who have a legitimate medical use  
34 of marijuana, it is necessary that this act take effect  
35 immediately.

---

**SENATE HEALTH AND HUMAN SERVICES  
COMMITTEE ANALYSIS  
Senator Diane E. Watson, Chairperson**

---

**BILL NO:** SB 535  
**AUTHOR:** Vasconcellos  
**AMENDED:** March 31, 1997, in Senate  
**HEARING DATE:** April 2, 1997  
**FISCAL:** Public Safety/Appropriations/Urgency

**CONSULTANT:**  
Miller

**SUBJECT**

Marijuana, Medical Research

**SUMMARY**

This bill authorizes and establishes a medical marijuana research center to study possible medical applications of marijuana and creates a task force to design a marijuana distribution plan. The bill also clarifies related legal definitions and policies.

**ABSTRACT**

Existing law, the Compassionate Use Act of 1996, prohibits any physician from being punished for having recommended marijuana to a patient for medical purposes. The act exempts from prosecution possession or cultivation of marijuana for patients and patients' primary caregivers who possess or grow marijuana for personal medical purposes. The act also directs the Legislature to establish a legal means of distributing marijuana to patients. The Compassionate Use Act was established by a popular initiative, Proposition 215, in November, 1996. Federal law conflicts with this statute.

This bill:

1. Finds that Californian voters, in enacting Proposition 215 in 1996, affirmed that marijuana has beneficial medical uses; that patients appropriately using marijuana for medical purposes should not be criminally prosecuted; and that a safe distribution system for medical marijuana should be established. Further finds a need for scientific research on medical applications for marijuana and protection from federal prosecution for physicians recommending marijuana to their patients.
2. Makes conforming and clarifying definitions. Establishes claim of medicinal use as a defense for charge of possession of marijuana at a pretrial hearing; conforms marijuana use to local smoking laws; requires physician notice to parent or guardian

Continued---

prior to any recommendation for marijuana use by an unemancipated minor.

3. Directs the University of California to create a Medical Marijuana Research Center to ascertain the safety and efficacy of marijuana use and to establish medical guidelines for medical marijuana use. Specifies inclusion of appropriate personnel, information systems, protocols, and laboratories. Authorizes immediate solicitation of research proposals into the most promising medical applications. Requires and permits consultation, survey material, patient/clinical trials, and comparative delivery mechanisms and dosages.
4. Requires a report to the Legislature six months after the operative date and progress reports every subsequent six months. Specifies content of reports.
5. Directs the marijuana research center be based on the U.C. campus with greatest psychopharmacological experience. Requires that research funds be allocated according to plan developed by investigators. Authorizes acceptance of other private/public funding and limits indirect cost recovery by U.C. to 15 percent of the annual allocation for the center.
6. Creates the Medical Marijuana Distribution System Task Force to design a statewide plan for provision of safe and affordable distribution of marijuana for patients. Specifies that the task force consist of 12 diverse members, including three U.C. faculty members (representing the fields of pharmacology, agriculture and medicine); three appointments by the Governor (representing physicians, law enforcement, and health care); three appointments by Senate Rules (representing law enforcement, patients, and nurses); and three appointments by the Speaker (representing patient advocates, patients, and the judiciary). Requires eight public hearings across the state, an annual interim report and final recommendations within two years.
7. Appropriates two million dollars from the General Fund for FY 1997-98. Appropriates \$140,000 from the General Fund for the first year of the distribution task force. States intention to appropriate like amounts for subsequent years through the budget process.
8. Urgency statute.

### FISCAL IMPACT

Appropriates \$2,140,000 from the General Fund for FY 1997-98. Authorizes budget expenditures of like amounts for subsequent years.

### BACKGROUND AND DISCUSSION

Passage of California's Proposition 215 and a similar measure in Arizona in November, 1996, reignited what remains a shrill debate over the medical benefits of marijuana. The complexity and variety of the chemical compounds in marijuana, its legal status, its psychoactive effects, and its delivery mechanism (inhaled smoke) all contribute to the emotionalism and contradictory views that typify this debate.

Continued --

The advanced stages of many illnesses and their treatments are often accompanied by intractable nausea, vomiting, or pain. Thousands of patients with cancer, AIDS, and other diseases anecdotally report dramatic relief from these symptoms by smoking marijuana. The alleviation of such distress is so beneficial to some patients and their families that they have been willing to risk arrest. Marijuana promises remarkable new drug therapies which may correct faulty memories, poor motor coordination, reduce epileptic seizures and control glaucoma. However, contradictory evidence exists for most claims, euphoric and psychological side effects occur, and there is evidence that negative long term effects result from the smoking aspect of marijuana use.

The author intends that this measure provide legitimate medical research to resolve these contradictions. Both sponsor and author note that the federal government, which remains openly hostile to any marijuana use, has successfully blocked unbiased research on marijuana's benefits.

Americans for Medical Rights, the bill's sponsor notes that Californian's electoral victory may result in re-opening the possibility of federally approved medical research.

Aside from medical disputes, law enforcement argues that expanded access to marijuana, even a limited expansion, increases the social acceptability of marijuana, and inadvertently increases illegal, inappropriate use of the drug. The Narcotic Officers Association believes that support for SB 535 perpetuates the violation of federal laws by condoning possession and cultivation of marijuana. Proponents of Proposition 215 and SB 535 respond by noting that medical applications of morphine and other illegal drugs routinely occur without increased illegal consumption, and there is no reason to believe marijuana use could not be accounted in a similar fashion.

An informal survey of marijuana research indicated substantial support for further scientific research. Published studies at Harvard and the National Cancer Institute found widespread relief from nausea caused by cancer chemotherapy, and that smoked marijuana was more effective than oral administered THC ("marinol"). UCLA and Howard University found reduced interocular pressure among glaucoma patients, but this beneficial effect was accompanied by an increased heart rate and lower blood pressure. Contradictory evidence exists regarding treatment of epilepsy and Multiple Sclerosis, but marijuana clearly affected both disease states. Very little research has been done on one of the most common applications of marijuana: the wasting syndrome of AIDS where patients grow gaunt and weak from weight loss. AIDS activists insist that smoking is far more effective than research based on marinol (oral THC) would indicate, and have presented to the committee dramatic cases of weight gain by desperate AIDS patients. However, smoking marijuana may also make patients more susceptible to a rare form of fatal pneumonia and a further suppression of the immune system. Additionally, there are indications that long-term marijuana use may be carcinogenic and have a synergistic effect on tobacco related lung injuries.

This measure also establishes a two year task force to make recommendations on establishing a distribution system for medical marijuana. This product is currently distributed by a system of fifteen "buyers clubs", which obtain marijuana on the black market and resell it to patients, usually with the toleration of law enforcement. On March 26, 1997, San Jose became the first city to regulate medical marijuana vendors like any other local business.

### COMMENTS

1. An amendment is necessary to change the annual appropriation from 6 to 2 million dollars, consistent with the author's intent.
2. The research directed by this measure explicitly seeks to explore promising positive applications of medical marijuana. There could be an equally valuable public benefit from research on contraindications and potentially negative effects.

### POSITIONS

**Support:** Americans for Medical Rights (Sponsor)  
California Office for Reform of Marijuana Laws  
Friends Committee on Legislation  
AIDS Project Los Angeles  
Institute for Community Health Outreach  
LIFE, Lesbian/Gay and AIDS Lobby  
California Nurses Association  
Southern Californians for Compassionate Use

**Oppose:** California State Sheriffs Association  
Committee on Moral Concerns  
California Narcotic Officers Association

-- END --