



British Columbia Compassion Club Society

Response to MMAR Amendments

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INTRODUCTION

The MMAR programme was established to remedy the unconstitutionality of the Cannabis prohibition laws, which force Canadians to choose between their liberty and their health, by providing a legal route for those who use cannabis medically. Since its inception in 2001, the programme has failed to meet that goal.

Considering that this programme has provided licenses for legal possession to only 800 Canadians, production licenses to only 500, and has supplied only 80 of the estimated 400,000 who use it medicinally, it cannot be said to be remedying the unconstitutionality of the prohibition laws. In fact, it would leave the vast majority of medical users potentially subject to increased criminal sanctions and fines under the proposed Bill C-17.

Moreover, this programme has been found unconstitutional in the courts. The latest amendments to the MMAR programme continue to evade the court ordered remedies and their responsibility to Canadians.

These amendments purportedly address the concerns of all the programme's stakeholders. Indeed, they do appear to meet the needs of law enforcement. They also address some of the concerns of physicians, although it is yet uncertain if it will be sufficient to encourage them to embrace the previously rejected role of gatekeeper. Glaringly, the needs of medical cannabis users – the primary stakeholders – continue to be unmet by these Regulations.

The BC Compassion Club has responded below to the proposed amendments with recommendations that adhere to the overarching goal of providing optimal health care to all those in need.

RESPONSE TO THE PROPOSED AMENDMENTS

The amendments that have been proposed address the needs of some of the programme's stakeholders. However a few key points require further consideration if this programme is to successfully meet the needs of medical cannabis users.

1. Elimination of the Personal Production Licenses

Health Canada's plan to fade out Personal Production and Designated Person Licenses is of no benefit to the most important stakeholders in this programme; the patients. For many, growing their own source of medicine not only allows for control over the mode of production (e.g. organic cultivation) and strain selection, but also minimizes some of the costs associated with purchasing cannabis from another party.

The MMAR must continue to allow personal production and designated person licenses, and must also implement the court remedy of allowing Designated-Person Production License holders to grow for more than one holder of an Authorization to Possess License, and more than three holders of licenses to produce and cultivate together.

2. Monopoly over Production

The amendments propose that the only legal source of medicine be produced by Prairie Plant Systems (PPS). To date, PPS has produced such a poor quality product that many of the few license holders who have ordered it have returned it.

The stated need for a standardized and quality-controlled source of marihuana can be addressed through the licensing of laboratories to carry out the appropriate tests.

International drug conventions can also be respected in regards to the requirement for a government agency to have tight control through the establishment of licensing protocols.

Establishing a monopoly over production will not address the need for a wide variety of strains, stronger product, and safer cultivation techniques. These goals would best be achieved through the contracting of a large number of small-scale producers who possess the expertise and experience necessary for this important undertaking.

The MMAR must accommodate competition in a free market in order to increase the quality, broaden the selection, and decrease the end-cost of the medicine, all of which are necessary to meet the needs of medical cannabis users.

3. Authorization to Recommend Access

The proposed amendments still require a patient in the new 'Category 2' to be assessed by a specialist, discriminating between levels of medical assessment warranted for different symptoms based on the existing state of scientific knowledge.

Considering the dearth of research due to the prohibition of Cannabis, as well as the lack of commitment to research demonstrated by Health Canada, in effect this amendment arbitrarily discriminates between Canadians equally deserving relief from their symptoms. This injustice is exacerbated since this option does not address the obstacle of waiting lists for specialists, nor the fact that specialists are more resistant to the programme than general practitioners.

This amendment demonstrates a lack of respect of the medical opinions of health care practitioners and interferes in their relationship with their patients.

Regardless of the condition in question, one recommendation from a health care practitioner must be sufficient to authorize legitimate use of Cannabis or access Health Canada's medicinal cannabis programme.

Amendments to the MMAR state "Health Canada will continue to require the opinion and support of a physician, since physicians are the professionals best positioned to assess medical need. Decisions by the courts have lent support to the continued involvement of physicians, including specialists."

The amendments reject the natural health care professionals, since "with few exceptions, controlled substances can be sold or provided to a patient only by, or under the direction of a physician, dentist or veterinarian." Cannabis must be also considered an exception, since it is a relatively harmless herb, unlike most other controlled substances.

For optimal health care, authorization to recommend access to herbs must be extended to the health care practitioners most experienced with herbal medicine, such as Naturopathic Doctors and Doctors of Traditional Chinese Medicine.

4. Natural Health Product

The amendments to the MMAR claim that "Marihuana is a drug as defined by the Food and Drugs Act and is not a natural health product as defined by the Natural Health Products Regulations."

For the purposes of those Regulations, a substance or combination of substances or a traditional medicine is not considered to be a natural health product if its sale, under the *Food and Drug Regulations*, is required to be pursuant to a prescription when it is sold other than in accordance with section C.01.043 of those Regulations.

According to these amendments, pursuant to a confirmation of diagnosis, and ministerial approval, a patient is legally licensed to access cannabis without a prescription. Therefore

according to the purposes of the Natural Health Product Regulations, cannabis could be classified as a Natural Health Product.

Cannabis must be regulated as a Natural Health Product in order to eliminate the obstacles presented for patients, doctors, and the governing bodies of the medical community that arise from attempting to regulate and administer this herb as a pharmaceutical product.

5. Pharmacy Distribution

Amendments made to physician forms appear to have been designed specifically to place cannabis in “a more traditional health care model.” There is an underlying assumption that this model entails only physicians and pharmacies, and that this model is the only one that will “enhance protection of the health and safety of Canadians.”

While pharmacies may provide a base level of service and facilitate access for some, this model is not sufficient to meet the needs of all medical cannabis users. Pharmacies traditionally do not have the capacity to provide the additional information and close monitoring of patients postulated in the amendments. They also will not be providing access to the variety of strains and delivery options needed to address the many symptoms of medical cannabis users.

Health Canada must recognize Compassion Clubs as the ideal compliment to the pharmacy model, allowing the needs of all medical cannabis users to be met.

ADDITIONAL REQUIRED AMMENDMENTS

The proposed amendments have failed to address some of the major concerns articulated by medical cannabis users.

1. Licensing of Compassion Clubs

The court-ordered remedies, which have been ignored in these amendments, were meant to clear the way for licensing of Compassion Clubs. In court, Health Canada stated that these clubs addressed the supply issue since they “historically provided a safe source of marihuana to those with the medical need” and that “these ‘unlicensed suppliers’ should continue to serve as the source of supply for those with a medical exemption.” Despite their own claims, Health Canada has still not integrated Compassion Clubs into the legal framework.

For over seven years, Compassion Clubs operators have been risking arrest and criminal prosecution in order to address the pressing medicinal needs of Canada's critically and chronically ill. This vital work has been recognized by numerous Canadian courts, as well as governmental bodies such as the Senate Special Committee on Illegal Drugs. Compassion Clubs serve a clear and necessary purpose, and have the strong support of their local communities and of the Canadian public as a whole.

Compassion Clubs across Canada have garnered unique and invaluable experience supplying cannabis to over 8000 medical cannabis users, including many MMAR license holders. The BC Compassion Club Society (BCCCS) provides access not only to clean, high quality cannabis, but also provides education, monitoring, support and other natural health care services to their members - all at no cost to the taxpayer.

Community-based distribution through Compassion Clubs could meet both the needs of medical cannabis users and the other goals articulated by the MMAR by adhering to the following standards:

- Non-profit incorporation to guarantee financial transparency and ensure responsibility to the consumer.
- A minimum level of production and distribution standards based on Good Lab Practices (GLP) and Good Agricultural Practices (GMP) guidelines.
- The exclusive use of organic cultivation practices.
- Participation in inspections to ensure standards are being met

Community-based, non-profit Compassion Clubs are an effective, affordable, sensible, and time proven way, not only to distribute medicinal cannabis, but also to provide suffering Canadians with valuable services no other model can offer.

To ensure the future success of a medical cannabis programme, Health Canada must respect Compassion Clubs as an effective distribution model that has already proven the ability to meet the needs of many medical cannabis users and save the government a significant amount of money.

2. Cost Coverage

These amendments fail to address the vital concern of cost coverage that primary stakeholders expressed directly to Health Canada during the consultation session in Ottawa in February 2003. The failure to act on this important issue will continue to force many legitimate users of medicinal cannabis into poverty.

Cost coverage must address all costs of medicine, including personal cultivation and purchases from Compassion Clubs and must not be limited to Health Canada's product, which is below quality standards for potency, variety, and safety.

Health Canada must establish affordability and reimbursement of the costs through the provincial health insurance system, private insurance companies and tax deductions for all use of cannabis for recognized medical conditions and symptoms.

3. Amnesty

Canadian courts have found that those who are using, supplying or producing medicinal cannabis are providing an essential healthcare service. Unfortunately some Canadians have received a criminal record for providing or using medicinal cannabis.

To restore justice, medicinal cannabis users, distributors and their suppliers must immediately be given amnesty.

4. Decentralization of Authorization

The Office of Medical Cannabis has spent millions of dollars operating an unnecessary bureaucracy that has produced little benefit to Canadians. Compassion Clubs, by contrast, implement high standards of eligibility and provide quality medicine to thousands of Canadians at no cost to Canadian taxpayers.

The decentralization of the Office of Cannabis Medical Access programme and the legitimization of Compassionate Clubs will not only save Health Canada precious resources, it will also address many of the concerns expressed by those who could benefit from the medical use of cannabis.

Like other natural health products and pharmaceutical medications, the lawful possession of medicinal cannabis must not require authorization from a centralized federal body, the Office of Medical Cannabis Access.

CONCLUSION

Health Canada has been put in the challenging position of balancing the needs of law enforcement, the medical establishment and medical users of cannabis.

The implementation of our recommendations is necessary to meet the needs of the hundreds of thousands of Canadians who could alleviate their chronic pain, improve their appetite and relieve their nausea, while staying productive and maintaining a level of hope and happiness despite their serious condition.

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