

BC Compassion Club Society
and
Victoria Island Compassion Society
**Recommendations to Health Canada
Regarding the
Medical Marijuana Access Regulations**

January 20th, 2003

To: Anne McLellan, Minister of Health
Beth Pieterston, Associate Director General, Health Canada
Cindy Cripps-Prawak, Canada Office of Cannabis Medical Access
Valerie Lasher, Canada Office of Cannabis Medical Access
Dr. Robert Goyer, Canada Office of Cannabis Medical Access
Martin Cauchon, Minister of Justice and Attorney General of Canada
Libby Davies, Member of Parliament
Pierre Claude Nolin, Senator

To Health Canada, the OCMA, our elected and appointed representatives,

In light of the recent Ontario court decisions that found the Marijuana Medical Access Regulations to be unconstitutional for only providing the “illusion of access” to medicinal cannabis to those with a legitimate need, Health Canada finds itself in the position to make real and effective reforms to the MMAR. The British Columbia Compassion Club Society (BCCCS) and the Vancouver Island Compassion Society (VICS) have been safely distributing medicinal cannabis for a number of years. Our mandate has been to improve access to this benign herb, and to work with Health Canada and the federal government when necessary to address the concerns of the medicinal cannabis community.

Hilary Black (founder/director of the BCCCS) and Mr. Philippe Lucas (founder/director of the VICS) had a chance to meet with then Health Minister, Allan Rock, in 2000 to discuss the design and implementation of the MMAR. During that meeting we expressed that the proposed protocol was overly onerous on legitimate users, placed too much emphasis on the doctors as gatekeepers, and didn’t address the practical realities of supplying and using cannabis for medicinal purposes. We also recommended that Health Canada would save much time and money by consulting with the clubs in regards to strain selection, grow methods, distribution, and the effective use of medical marijuana. These concerns were repeated when Mr. Lucas and Miss Black received separate invitations by the Senate Special Committee on Illegal Drugs to testify on the status of medicinal cannabis in Canada.

Sadly, much of our advice was ignored - even as our predictions of bureaucratic fumbling, arbitrary enforcement and implementation, and legal challenges came to light. As a result, thousands of people who could benefit from this herb have risked criminal charges to access it through the black market, the medical community has for all intents and purposes condemned the program to irrelevance, and Health Canada has been found to be in constitutional breach of the Terry Parker decision by a number of courts. Meanwhile, compassion clubs and societies continue to be the main suppliers of medicinal cannabis in Canada, and continue to garner praise for their work from the press, public, and legal courts¹.

Although the recent court decisions may be seen by Health Canada as a setback for the MMAR, we prefer to view them as an opportunity to improve the overall effectiveness of the program, and to finally fulfill its mandate for compassionate access to cannabis.

We have included past recommendations from the BCCCS, the VICS and the Canadian Cannabis Coalition with this package. Following this letter are some relevant excerpts from the Senate Special Committee on Illegal Drugs report, a supplementary report to the House of Commons Special Committee on the Non-Medical Use of Drugs, and the recent Lederman Judgement from Ontario's Court of Appeal.

The following are some areas of concern that have arisen since the implementation of the government's cannabis program:

1. Access to the Program:

- In light of the CMA and CMPA criticisms of the program, and threats given to physicians regarding their insurance from the NHPA, Health Canada should shift the emphasis from the physician as “gatekeeper”, to the physician as diagnostician. This program cannot assume the participation of physicians.
- Health care practitioners with the most experience in dealing with natural therapies – such as certified herbalists, naturopaths, and doctors of traditional Chinese medicine – must be allowed to recommend and prescribe cannabis for their patients.
- The current application process is far too onerous, especially for non-terminal patients who must seek the support of one or two specialists. We suggest that regardless of the condition in question, a recommendation from a general practitioner or certified alternative healthcare provider should be all that is needed to access the Health Canada medicinal cannabis program.
- The fees charged by some physicians to fill out the lengthy forms are prohibitive to those with a low income thus rendering this program unequally accessible. There should be no direct cost to the applicants for participating in this program.
- Many license holders have found that since registering they have lost privacy, been hassled by police officers, and been discriminated against by private health and home insurance companies, public housing corporations, and social service providers. The risks of this program outweigh the benefits, which are few considering it does not subsidize nor provide access to a legal supply of cannabis. Participants in this program must be protected.

2. Production of Cannabis:

- It is time to put an end to Health Canada's failed monopoly on cannabis production. The \$5.7 million contract granted to Prairie Plant Systems (PPS) three years ago has yet to produce a single usable gram or seed of marijuana. By comparison, the BCCCS supplied safe and effective cannabis to over 2200 members in 2002s. Even if PPS were to start supplying patients today, the high production costs would make it the most inefficient and expensive grow operation (legal or otherwise) in Canadian history.
- The legal production of cannabis should not be limited to a single sanctioned grower. This is contrary to the ideals of the free market, and has obviously not resulted in an adequate supply line for either distribution or research (as can be seen by Health Canada's embarrassing decision to use NIDA cannabis for Canadian research).

- Much strain knowledge and cultivation experience resides with the black market producers of medicinal cannabis. If Health Canada's program were ever going to successfully produce effective strains of medicinal cannabis, it would benefit considerably by consultation with these producers.
- Lastly, the benefits of organic cultivation to the individual user as well as the environment are undeniable. It is inexcusable and unconscionable for PPS to be cultivating a medicinal herb using non-organic fertilizers.

3. **Distribution:**

- As has been stated above, the only organizations that have practical experience in the distribution of medicinal cannabis are the dozen or so compassion clubs and societies scattered throughout Canada. Most of these organizations have strict rules regarding membership eligibility, the use and re-distribution of cannabis, as well as standards for medicinal cannabis. Many also offer alternatives to smoked marijuana, such as tinctures, oils, and baked goods, as well as provide education and consulting services to their members. It is time that Health Canada consult with these organizations to address the issues of safe and proper use and distribution of cannabis.
- The VICS and the BCCCS also possess extensive knowledge regarding strain/symptom correlations in treatment; Health Canada, Prairie Plants Systems and other designated growers could benefit substantially by accessing this unique experience and knowledge.
- As Honourable Superior Court Judge Lederman recently stated when ruling on the unconstitutionality of the MMAR: "As far as the distribution of marijuana to qualified users is concerned, the government might consider creating properly regulated distribution centres or licensing compassion clubs, as proposed in the recent Report of the Senate Special Committee on Illegal Drugs: Cannabis."

It is our hope that Health Canada will once again examine our documents, considers our additional concerns listed above, contact those with experience and knowledge in these areas, and finally present Canadians with a truly accessible, effective and compassionate medicinal cannabis program.

Thank you,

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Excerpts from the September 2002 Report of the Senate Special Committee on Illegal Drugs:

"The Marihuana Medical Access Regulations are not providing a compassionate framework for access to marijuana for therapeutic purposes and are unduly restricting the availability of marijuana to patients who may receive health benefits from its use."

"Changes are currently needed with regard to who is eligible to use cannabis for therapeutic purposes and how such people gain access to cannabis;"

"We also observe that this organization (the BCCCS), like others that provide a similar service in Canada, keeps detailed records of their clients and their marijuana use; these records allow treatment to be monitored, but could also be excellent material for empirical research. **We can only lament the fact that Health Canada has not undertaken clinical research in cooperation with this organization.**"

"Measures should be taken to support and encourage the development of alternative practices, such as the establishment of compassion clubs. The practices of these organizations are in line with the therapeutic indications arising from clinical studies and meet the strict rules on quality and safety"

"The **qualities of the marijuana used in those studies must meet the standards of current practice in compassion clubs**, not NIDA standards; "

"Health Canada should, at the earliest possible opportunity, undertake a clinical study in cooperation with Canadian compassion clubs."

Supplementary Report to the House of Commons Special Committee on the Non-Medical Use of Drugs,

Libby Davies, MP Vancouver East, a member of the House of Commons committee thought it important to draw attention to the "serious problems and flaws in the federal government's medical marijuana program". The report goes on to state that **the recommendations of the Senate Special Committee on Illegal Drugs regarding medical cannabis should be adopted.**

Quotes from Lederman Judgement from January 9, 2003

"Those who have been authorized to use marijuana or who have been granted licences to produce it are forced to seek it on the street and rely on criminal drug dealers. **This sad state of affairs is at odds with both drug control and compassionate access objectives underlying the MMAR.**"

"In order to grow or obtain marijuana, licensed users and growers ultimately have no choice but to turn to the black market to get seeds, plants or dried marijuana."

"Despite having medical conditions which qualify them to possess cannabis for therapeutic purposes, **the MMAR throw up significant barriers to actually obtaining a safe, licit and continuous supply of this medicine.**"

"As far as the distribution of marijuana to qualified users is concerned, **the government might consider creating properly regulated distribution centres or licensing compassion clubs**, as proposed in the recent Report of the Senate Special Committee on Illegal Drugs: Cannabis."

ⁱ Regina vs. Lucas: “I find that while there is no doubt that Mr. Lucas offended against the law by providing marijuana to others, his actions were intended to ameliorate the suffering of others. His conduct did ameliorate the suffering of others. By this Court's analysis, Mr. Lucas enhanced other peoples' lives at minimal or no risk to society, although he did it outside any legal framework. **He provided that which the Government was unable to provide a safe and high quality supply of marijuana to those needing it for medicinal purposes.** He did this openly, and with reasonable safeguards. The fact that he has stated he will continue this activity points to the sincerity of his principles, and points to our need as a society to get this thorny issue resolved quickly by either Parliament or the Supreme Court of Canada. If he re-offends, he will have to argue his case again, and may find a discharge difficult to obtain in the future. This court hopes that cooler heads will prevail pending the final resolution of issues regarding the medical and non-medical use of marijuana.” Honourable Judge Higinbotham, Provincial Court of British Columbia (as quoted in the Senate Special Committee Report on Illegal Drugs).