



## MEMORANDUM

### MEDICAL SOCIETY OF THE STATE OF NEW YORK

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#### Medicinal and Recreational Marijuana

The Medical Society of the State of New York convened its members on the Addiction and Psychiatric Medicine Committee; the Bioethics Committee and its Health Disparities Committee for comments on the possibility that New York State government may seek legalization of recreational marijuana. Comments were also expressed by committee members on the existing marijuana program for medicinal purposes.

The Medical Society of the State of New York opposes recreational marijuana legalization (**MSSNY Policy 65.965**). The Medical Society of the State of New York supports promotion of drug treatment to those arrested or fined for marijuana related offenses and encourages communities to develop programs that emphasize drug treatment and rehabilitation rather than criminalization of marijuana. (**MSSNY Policy 65.986**). Decriminalization of marijuana also is a social justice issue due to the disparity of the populations who are impacted.

Several states that surround New York State have taken steps to legalize marijuana and the country of Canada has recently legalized its use throughout the country. Despite the pressure that this brings, the Medical Society of the State of New York has significant concerns with the proposals to legalize marijuana for recreational use—and with the expansion of its marijuana for medicinal purposes.

The adolescent or teen brain continues to mature and develop until around age 25, especially in areas of the brain involved in planning, decision-making and learning which develop last. According to the National Institute on Drug Abuse, “Studies have shown that when marijuana is consumed, THC and other compounds enter the bloodstream, reach the brain and attach to naturally occurring receptors called cannabinoid receptors. This causes problems in learning and memory, coordination, reaction time and judgment. It also can cause hallucinations, paranoia and a range of emotional problems. Marijuana use may cause academic difficulties, poor sports performance, impaired driving and troubled relationships. (*National Institute on Drug Abuse; Marijuana Report Series*).

Of equal concern is the use of cannabis by women in the first trimester of pregnancy. The first trimester is a key phase of fetal neural development. One study, conducted over a 14 years, reports that while cigarette and alcohol consumption were down, cannabis use in pregnancy persisted and increased slightly. (*SOURCE: Agrawal A. et al. JAMA Pediatr. 2018 Nov. 5 doi: 10.1001/jamapediatrics.2018.3096*). Another study showed that there was a prevalence of cannabis use by adults with Type I Diabetes despite the fact that using cannabis was associated with a higher risk for diabetic ketoacidosis (DKA). (*SOURCE: JAMA Internal Medicine published online November 5, 2018*)

There has been conflicting reports from Colorado on the impact of the legalization of marijuana; and the merit of those reports were discussed by various members of the MSSNY committees. But, of concern, one of those reports “The Legalization of Marijuana in Colorado: The Impact; Volume 4, September 2016” indicated that:

- Marijuana related deaths increased 48 percent in the three year period since Colorado legalized recreational marijuana

- Marijuana-related deaths increased 62 percent from 71 to 115 persons after recreational marijuana was legalized in 2013
- In 2009, Colorado marijuana-related deaths involving operators testing positive for marijuana represented 10 percent of all traffic fatalities. By 2015, that number doubled to 21 percent.
- Emergency Department rates likely related to marijuana increased 49 percent in the two year period since legalization
- Marijuana only exposures increased 155 percent in the three year period that Colorado legalized marijuana
- Colorado youth past month marijuana use for 2013/14 was 74 percent higher than the national average
- The latest 2013/14 results show that Colorado adults ranked #1 in the nation for the past month marijuana use; and the adult rate of use was 104 percent higher than the national average compared to 51 percent nationally

Moreover, the SAMHSA report, “National Survey on Drug Use and Health: Comparison of 2015-2016 and 2016-2017 Population Percentages” has shown that marijuana use in young people has increased in those states that have legalized marijuana.

We appreciate that many who have called for legalization have also called for strong “guardrails” to protect against harms that could arise including abuse by vulnerable populations. In this regard, as New York State government considers legalization, the Medical Society believes that the following strategies must be in place as a safe guard to any proposal to make the use of marijuana available for recreational use (many of these recommendations arise from the recommendations from the American Society of Addiction Medicine):

#### **Harm Reduction Strategies**

- Prohibit the sale of any type of marijuana products to anyone younger than 25 years of age
- Prohibit the sale of any type of marijuana products to pregnant and post-partum women
- Prohibit the sale of any flavored type of marijuana
- Prohibit smoking due to the risks and negative impact to the lungs and respiratory system; Limit sales of marijuana to products that are edible and can be vaporized
- Limit the amount of marijuana an individual may obtain to ensure that there is no “marijuana shopping” to obtain large amounts for resale
- Develop an electronic system that will prevent individuals from purchasing large amounts of marijuana
- Set a level of 2 ng/ml of THC in whole blood, above which drivers are presumed to be intoxicated. (Confirmation of THC impairment using blood levels is difficult. There is not a linear relationship between THC concentration and impairment. In contrast to EtOH, THC causes increasing impairment even as blood levels fall. Nonetheless, lawmakers find it desirable to set a level, above which the driver is presumed to be under the influence. This blood level only identifies the tip of the iceberg of those who are impaired. Most states have adopted a level of 5ng/ml, yet have had dramatic increases in total traffic fatalities as well as THC associated crashes-see the Colorado experience. Using a level of 2, and aggressively educating drivers, would be a safer course)
- Prohibit use in public areas similar to tobacco legislation; ensure coverage under the Clean Indoor Air Act (CIAA)
- Establish a public awareness campaign similar to the tobacco program that would highlight the risks of marijuana to discourage vulnerable populations, youth, individuals with a history of addiction and mental illness from using marijuana
- Prohibit marketing and advertising to youth, (similar to the tobacco control program) and require that all marijuana products have warning labels that the drug is NOT approved by the US FDA. Such label shall include the serious health risks to mental and physical health, addiction, operation of motor vehicle/machinery, work related injuries and other possible impairments
- Require child proof packaging with information about poisoning and overdose.

### Structure of Recreational Program

- Limit marijuana product sales to state-operated entities
- Ban the use of marijuana in any type of school and college setting; reaffirm the concept of Drug Free Schools
- Reaffirm the right and responsibility of employers to maintain a drug free workplace. (Certain employers' drug use policies are determined by federal law. Some employers (ex., those under the Omnibus Transportation Employee Testing Act) must drug test in accordance with federal law, while others (federal contractors and grantees) must follow drug free workplace policies)
- Recognize the ability of all employers, not just federally regulated ones, to ban the use of marijuana by its employees at any time. The impairing effects of THC last more than a few hours; they may persist for days or longer depending on the frequency of use. A panel of experts from the American College of Occupational and Environmental Medical opined, "It is reasonable and responsible for employers to ban the use of marijuana at any time by employees, contractors, and other workers....Given the evidence that inhaled THC may impair complex human performance for more than 24 hours after ingestion, employers should not assume that marijuana use between shifts (such as evening use before return to work the following morning) is uniformly safe."
- Ensure that that strong penalties are established for those individuals who divert or obtain large supplies for resale purposes
- Ensure that penalties and enforcement of laws banning illegal sales are increased
- A portion of the revenues should support establishment of addiction treatment and rehabilitation of substance use disorder programs
- A portion of the revenues should be dedicated to research into marijuana on the risks and long-term effects from habitual users; the impact on young adults; and research into incidents of increased crimes, including violence, driving while under the influence, poisoning of children.
- Funds should also be dedicated to a public education awareness campaign
- Pursuit of changing marijuana from a Schedule I to Schedule II drug to enable resources for medical research
- Seek sunset provisions based on research outcomes

### Marijuana for Medicinal Purposes

The Medical Society of the State of New York (MSSNY) believes that the following principles should be consider when certifying a patient would be eligible for cannabis: 1) That the use of cannabis may have a role in treating patients who have been diagnosed with serious, debilitating illnesses, when all other treatments have failed; or when clinical trials have shown to demonstrate comparable efficacy to currently accepted treatments. 2) The Medical Society of the State of New York recognizes the risk of smoking cannabis and encourages the use of alternate delivery systems. 3) Physicians who recommend cannabis for patient use, subject to the conditions set forth above, shall not be held criminally, civilly or professionally liable. The Medical Society of the State of New York supports continued high quality clinical trials on the use of cannabis for medical purposes. **(MSSNY Policy 75.976)**. MSSNY also supports the process in which medications in the USA are regulated and approved by the FDA and not by state legislative action; opposes any process that entrusts the state legislature with the function of approving medications; reaffirms the fact that medication preparation needs to be strictly regulated by the FDA to assure safety, purity and effectiveness; and opposes, except for the terminally ill, any smoking formulation for medical marijuana as a delivery system for medication unless the FDA approves that delivery system. **(MSSNY 75.978)**

MSSNY is troubled by the promotion of marijuana use for opioid use disorder because it may worsen psychiatric co-morbidities and give a false impression to patients that it is as effective as established treatments such as methadone and buprenorphine, particularly in the prevention of fatal opioid overdoses. The US Food and Drug Administration has approved three medications for opioid use disorders—methadone, buprenorphine and naltrexone. MSSNY is concerned that the New York State

Department of Health is now sending a “mixed message” to physicians throughout New York State as to what are now considered acceptable methods of treating and managing pain in patients. At this time, there are no established CDC guidelines for treatment of acute pain. There is insufficient evidence to support marijuana as an alternative to other treatments for acute pain, including in patients with opioid use disorder. MSSNY is also very concerned that through regulations or state statute, there have been added medical conditions such as opioid use disorder, chronic pain, PTSD, where there is no medical evidence that the use of marijuana has been effective in treating these types of condition.

Should New York State take the step to legalize marijuana for use, it will be equally important that any program involving marijuana for medical purposes encapsulates treatment for certain conditions where there is evidence that such treatment is an effective modality. Thus, MSSNY recommends the following:

- Expand and promote medical research on marijuana within New York State and provide an appropriation in the NYS budget for this research
- Develop a public relations campaign that marijuana has certain health risks associated with it and that it may not be recommended as the first line treatment option
- Take steps necessary to limit the use of CBD oil as an over-the-counter drug and through internet sales. MSSNY recognizes that the FDA has approved Epidiolex, which contains a purified drug substance cannabidiol, one of more than 80 active chemicals in marijuana, for the treatment of seizures associated with Lennox-Gastaut syndrome or Dravet syndrome in patients two years of age and older.
- Ensure that the patients are not diverting (selling) their patient certificates to others and take whatever steps necessary to stop patients from getting multiple certificates and ensure that systems are in place to prevent profiteering
- Seek a insurance mechanism for patients unable to afford the cash price of marijuana

**Additional Resources:**

*Medical Marijuana in the Workplace; JOEM Volume 57, Number 5, May 2015*

*Position Statement on the Implications of Cannabis Use for Safety-Sensitive Work; Occupational and Environmental Medical Association of Canada*

*July 3, 2018 Letter to Howard A. Zucker, MD, JD from the New York Occupational and Environmental Association (NYOEMA)*

**December 13, 2018**