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## Michigan Supreme Court: Medical-pot dispensaries not allowed

4:51 PM FRI FEBRUARY 8, 2013

By [MARK BRUSH AND THE ASSOCIATED PRESS](#)

*Ever since Michigan voters approved the use of medical marijuana in 2008, confusion over how to implement the practice has reigned.*

*In one of the most significant rulings to date, the Michigan Supreme Court ruled today that medical marijuana dispensaries can be shut down as a public nuisance.*



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### **Update 4:51 p.m.**

MPRN's Jake Neher spoke with Michael Komorn of the Michigan Medical Marijuana Association.

Komorn said the ruling is a setback, but that it will be up to local communities to shut down medical marijuana dispensaries.

"I don't think, at the end of the day, that communities - and the people that are within the communities that are going to sit on the jury - are going to convict on these," said Komorn.

"The local authorities have made it clear that they don't want to, nor do they care about, this behavior. They don't find it to be a nuisance and it's not important for them to prosecute," he said.

Neher reports that Michigan State Attorney General Bill Schuette says he plans to send a letter to county prosecutors explaining how the ruling empowers them to close the dispensaries.

**2:45 p.m.**

After the Court of Appeals ruling in this case back in 2011, shutdowns and busts followed.

Now we're reading that some dispensaries are being advised to close their doors by their lawyers.

[Emily Monacelli reports for MLive](#) on the Med Joint Community Compassion Center in Kalamazoo County. After the ruling, the Center's founder, Kevin Spitler, said his doors would stay open, but that changed:

*But less than an hour later, Spitler said his lawyer had advised him to shut down. He said he did not know how long the dispensary would stay closed. Spitler has seven employees, including himself, all of whom are registered medical marijuana caregivers, he said. He declined to say how many patients they serve.*

*"That means everybody has to go to the streets to get their medicine now," Spitler said of the effect of the Michigan Supreme Court ruling.*

**12:22 p.m.**

The Michigan Supreme Court ruled today on a case heard before the Michigan Court of Appeals in August 2011.

In 2011, the Court of Appeals found that the Mount Pleasant dispensary, Compassionate Apothecary, was a public nuisance and in violation of the public health code, and that the sale of medical marijuana is not protected under the law.

Many dispensaries closed their doors after that ruling, waiting to see how police might respond. Some departments responded with raids and crackdowns, while others allowed the dispensaries to continue.

It remains to be seen what will occur in the wake of this ruling

The justices who signed the majority 4-2 opinion said their reasoning was different, but the conclusion they reached was the same.

From today's [Michigan Supreme Court ruling](#):

*Although it did so for a different reason than the one we articulate, the Court of Appeals reached the correct conclusion that defendants are not entitled to operate a business that facilitates*

*patient-to-patient sales of marijuana. Because the business model of defendants' dispensary relies entirely on transactions that do not comply with the MMMA, defendants are operating their business in "[a] building . . . used for the unlawful . . . keeping for sale . . . or furnishing of any controlled substance," and plaintiff is entitled to an injunction enjoining the continuing operation of the business because it is a public nuisance.*

**11:35 a.m.**

We will link to the ruling once we have it.

Karen Bouffard writes for the [Detroit News](#) that Supreme Court Justices Chief Justice Robert Young Jr. and Justices Markman, Kelly and Zahra ruled that the Michigan Medical Marihuana Act of 2008 only protects registered caregivers and their patients.

*The justices also ruled patient-to-patient transfers of medical marijuana are not legal under the voter-approved law, appearing to contradict a Court of Appeals decision last week that concluded there's nothing illegal about a medical marijuana user providing a small amount of pot to another registered user at no cost.*

Here's more on that **Error! Hyperlink reference not valid..**

**10:43 a.m.**

DETROIT (AP) - The Michigan Supreme Court says users of medical marijuana can't buy it at pot shops.

The 4-1 decision Friday is the most significant court ruling since voters approved marijuana for certain illnesses in 2008. It means the state's 126,000 approved users must grow their own pot or have a state-licensed caregiver grow it for them.

The state appeals court declared dispensaries illegal in 2011, but enforcement has depended on the attitudes of local authorities. Some communities took a hands-off approach while waiting for the Supreme Court to make the ultimate decision.

The case involves a Mount Pleasant dispensary that allowed medical-marijuana users to sell pot to each other. Owners took as much as a 20 percent cut of each sale. Isabella County shut it down as a public nuisance.

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