

An Update on Michigan's Medical Marihuana Act

Presented by:

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Prosecuting Attorneys Association of Michigan







Hornet's Nest



Michigan Medical Marihuana Act

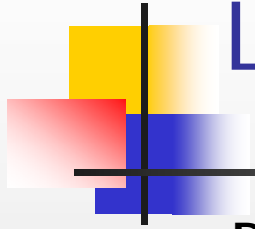


What is Marihuana?

- It is a psychoactive drug extracted from the plant *Cannabis sativa*.
- The herbal form of the drug consists of dried mature flowers and leaves of female plants.
- The resinous is known as hashish.
- The biological active ingredient is THC.



Most Common Drugs at the MSP Laboratory- 2012



| Drug | % of Cases | Drug | % of Cases |
|-----------------|------------|-----------------|------------|
| THC | 56 | Clonazepam | 4 |
| Alprazolam | 24 | Zolpidem | 2 |
| Hydrocodone | 16 | Cyclobenzaprine | 2 |
| Cocaine | 10 | Methamphetamine | 2 |
| Morphine | 10 | Trazodone | 2 |
| Soma | 10 | Fluoxetine | 2 |
| Diazepam | 8 | Butalbital | 1 |
| Diphenhydramine | 7 | Phenobarbital | 1 |
| Codeine | 6 | Venlafaxine | 1 |
| Methadone | 5 | Propoxyphene | 1 |
| Amphetamine | 5 | Sertraline | 1 |
| Citalopram | 4 | MDMA | <1 |
| Oxycodone | 4 | Fentanyl | <1 |
| Tramadol | 3 | | |



Marihuana Potency

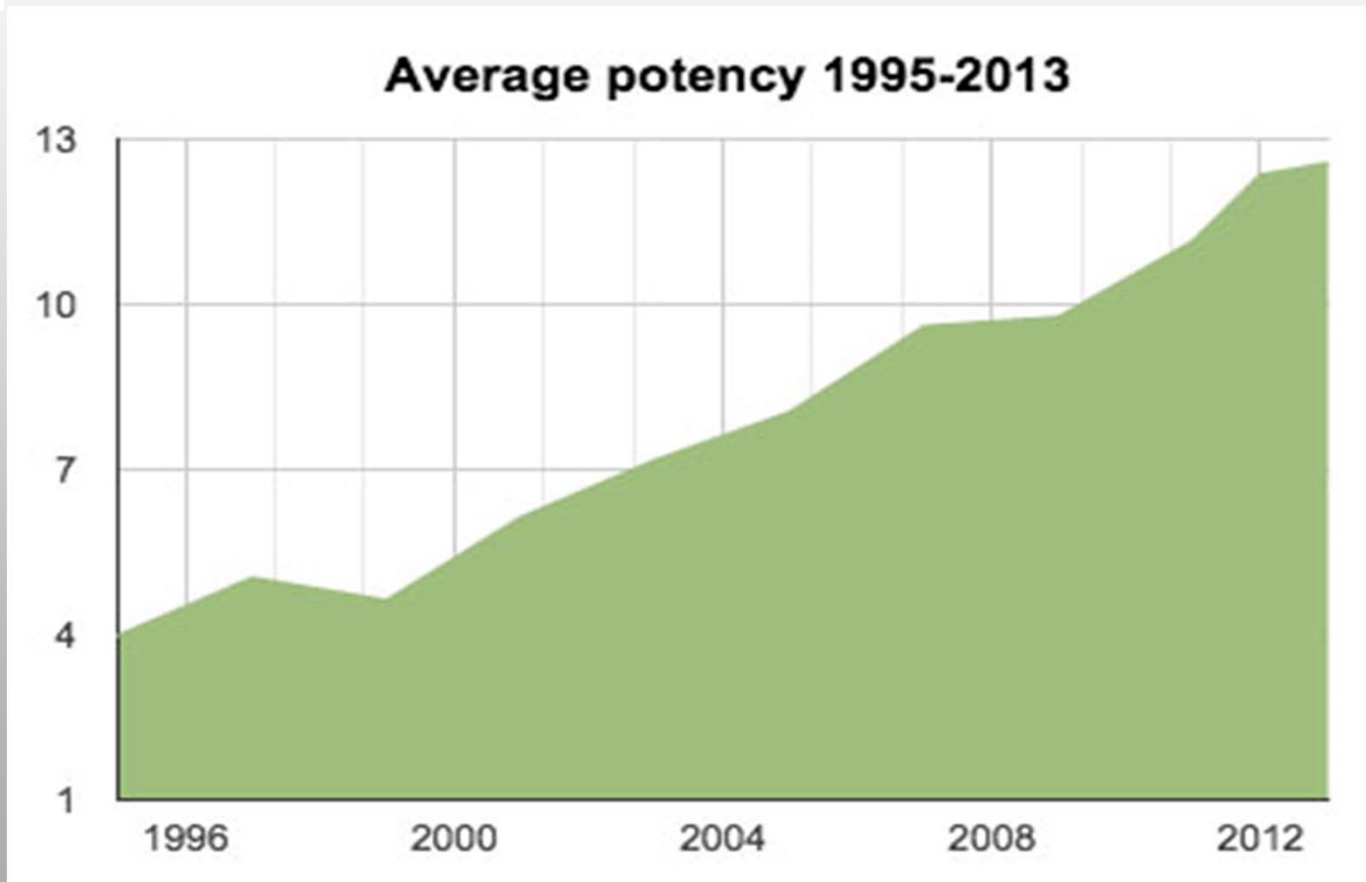
Average THC:

2008: 10.1%

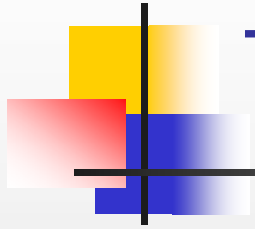
2007: 7.3%

1983: <4%

Marihuana Potency 1995-2013

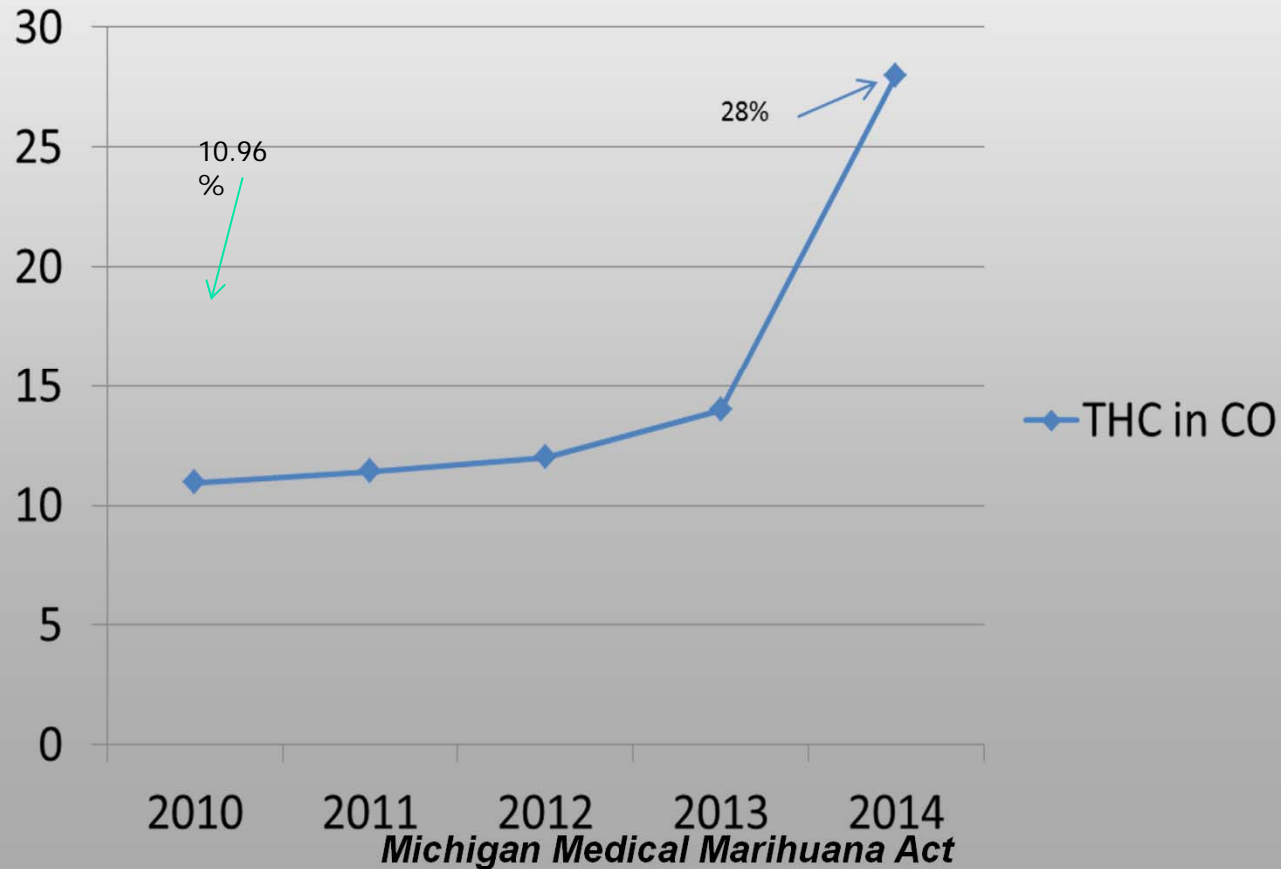


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The last 4 years in Colorado

155.47% increase in THC levels



White Dawg

Hybrid
White Fire OG X Chemdog



THC:21.03%

(Tetrahydrocannabinol)

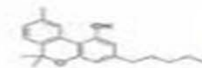
THC is used to treat pain, nausea, muscle spasms and stimulate appetite. Other effects include relaxation, euphoria and altered space-time perception.



CBD:0.18%

(Cannabidiol)

CBD may hold the most promise for many serious conditions. CBD is a non-psychoactive cannabinoid that is believed to relieve pain and anxiety; reduce blood sugar levels, seizures, inflammation, nausea, vomiting and risk of artery blockage.



CBN:0.01%

(Cannabinol)

High CBN levels in a medical cannabis can indicate its age. The longer cannabis is exposed to light and air, the more other cannabinoids will degrade into CBN's, which have been known to aid sleep, relieve pain and suppress muscle spasms.

Fweedom
Collective

7027 15th Ave NW Seattle WA 98117

Fweedom.com

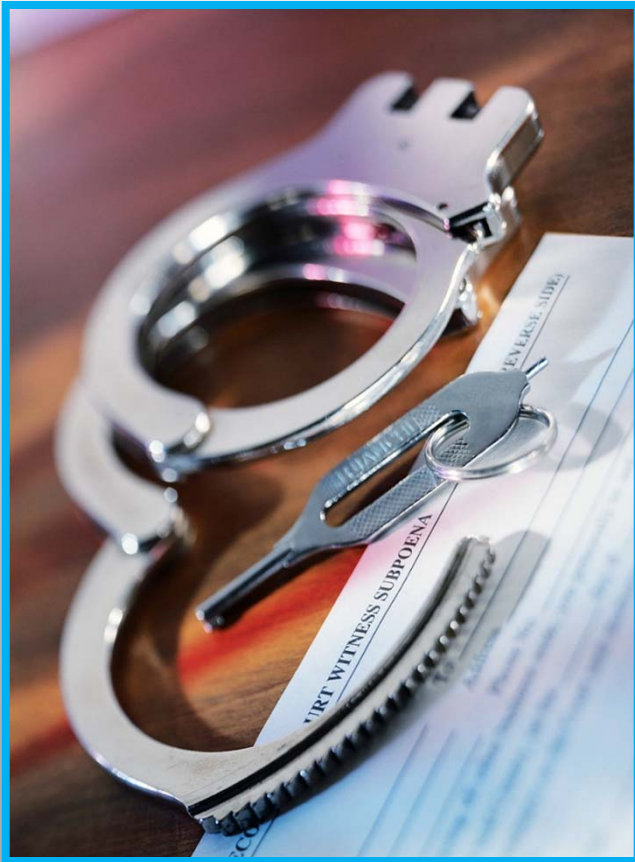
206.734.9333

Street Price

- \$6 a gram in 1981;
- \$18 a gram in 1991;
- \$10 a gram present;
- An ounce ranges from \$100-\$400 in the U.S.;
- \$200-\$700 in the Midwest;
- “Cocoa puff” -cocaine and marihuana; “Frios” - marihuana laced with PCP; “Fuel” -marihuana laced with insecticides; “”Geek” -crack and marihuana.



Federal Law



Controlled Substances Act (1970)

- Marihuana is a Schedule I drug: *"No currently accepted medical use"*
- No legal distinction between medical and recreational use
 - Up to 1 year in federal prison, \$100,000 fine for first possession offense
 - Up to 5 years in federal prison, \$250,000 fine for first manufacturing offense

Michigan Medical Marihuana Act



Drug Enforcement Administration's Position-June 21, 2011

- Marijuana has a high potential for abuse.
- Marijuana has no currently accepted medical use in treatment in the United States.
- Marijuana lacks accepted safety for use under medical supervision.
- http://www.deadiversion.usdoj.gov/fed_regs/rules/2011/fr0708.htm

D.C. Circuit Court of Appeals in *Americans for Safe Access v. Drug Enforcement Administration*- Decided January 22, 2013

Michigan Medical Marijuana Act



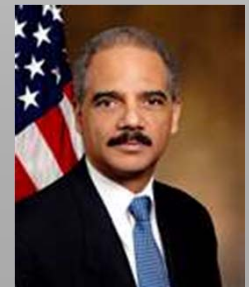
President Barack Obama's Statements to the New Yorker Magazine-January 2014

- President Obama doesn't think marihuana is more dangerous than alcohol, "in terms of its impact on the individual consumer."
- "As has been well documented, I smoked pot as a kid, and I view it as a bad habit and a vice, not very different from the cigarettes that I smoked as a young person up through a big chunk of my adult life. I don't think it is more dangerous than alcohol," the President said.
- Smoking marihuana is "not something I encourage, and I've told my daughters I think it's a bad idea, a waste of time, not very healthy," Obama said."



Department of Justice's Position-October 19, 2009

- The Department of Justice put forth new legal guidelines.
- Prosecutors will be told "It is not a good use of their time to arrest people who use or provide medical marijuana in strict compliance with state law."



Michigan Medical Marijuana Act

Department of Justice's Position-June 29, 2011

- The Department of Justice clarified its previous position.
- The Department's position in October 2009 "was never intended to shield such activities from federal enforcement action and prosecution, even where those activities purport to comply with state law."

Michigan Medical Marihuana Act



Department of Justice's Position-August 29, 2013

- "The Department's guidance in this memorandum rests on its expectation that states and local governments that have enacted laws authorizing marihuana-related conduct will implement strong and effective regulatory and enforcement systems that will address the threat those state laws could pose to public safety, public health and other law enforcement interests."

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Areas of Importance for the Department of Justice- August 29, 2013

- Department of Justice will still prosecute individuals or entities to prevent:
 - the distribution of marihuana to minors;
 - revenue from the sale of marihuana from going to criminal enterprises, gangs and cartels;
 - the diversion of marihuana from states where it is legal under state law in some form to other states;
 - state-authorized marihuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;
 - violence and the use of firearms in the cultivation and distribution of marihuana
 - drugged driving and the exacerbation of other adverse public health consequences associated with marihuana use;
 - growing of marihuana on public lands and the attendant public safety and environmental dangers posed by marihuana production on public lands;
 - preventing marihuana possession or use on federal property.



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United States Congress' Position

- On December 17, 2014, U.S. Congress passed a bill that included a provision that blocks the U.S. Justice Department from spending any money to enforce a federal ban on growing or selling marihuana in the 23 states and the District of Columbia that have moved to legalize it for medical use.
- "The war on medical marihuana is over," Bill Piper, a lobbyist with the Drug Policy Alliance, declared to the Los Angeles Times.

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ATF Open Letter-9/21/11

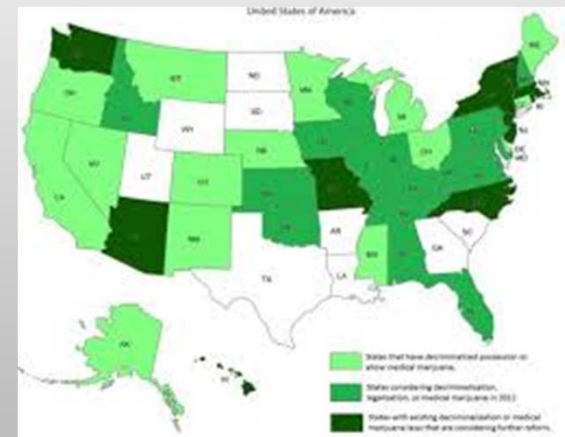
- “Any person who uses or is addicted to marihuana, regardless of whether his or her State has passed legislation authorizing marihuana use for medicinal purposes, is an unlawful user of or addicted to a controlled substance, is prohibited by Federal law from possessing firearms or ammunition.”

Michigan Medical Marihuana Act



Medical Marijuana Trends in USA

- 1996 - California
- 1998 – Alaska, Oregon & Washington
- 1999 – Maine
- 2000 – Colorado, Hawaii & Nevada
- 2004 – Montana & Vermont
- 2006 – Rhode Island
- 2007 – New Mexico
- 2008 – Michigan
- 2010 – Arizona, DC & New Jersey
- 2011 – Delaware
- 2012 – Connecticut, Massachusetts
- 2013 – Illinois, New Hampshire
- 2014 – Maryland, Minnesota, New York



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Michigan Public Health Code Law-Schedule 1 Drug

- Marijuana is classified as a Schedule 1 drug under the Michigan Public Health Code, MCL 333.7212.
- It is a Schedule 1 drug if the Michigan Board of Pharmacy:

“finds that the substance has high potential for abuse and has no accepted medical use in treatment in the United States or lacks accepted safety for use in treatment under medical supervision.”

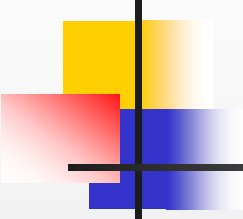


Michigan Medical Marijuana Act



Application Process for Medical Marihuana Card

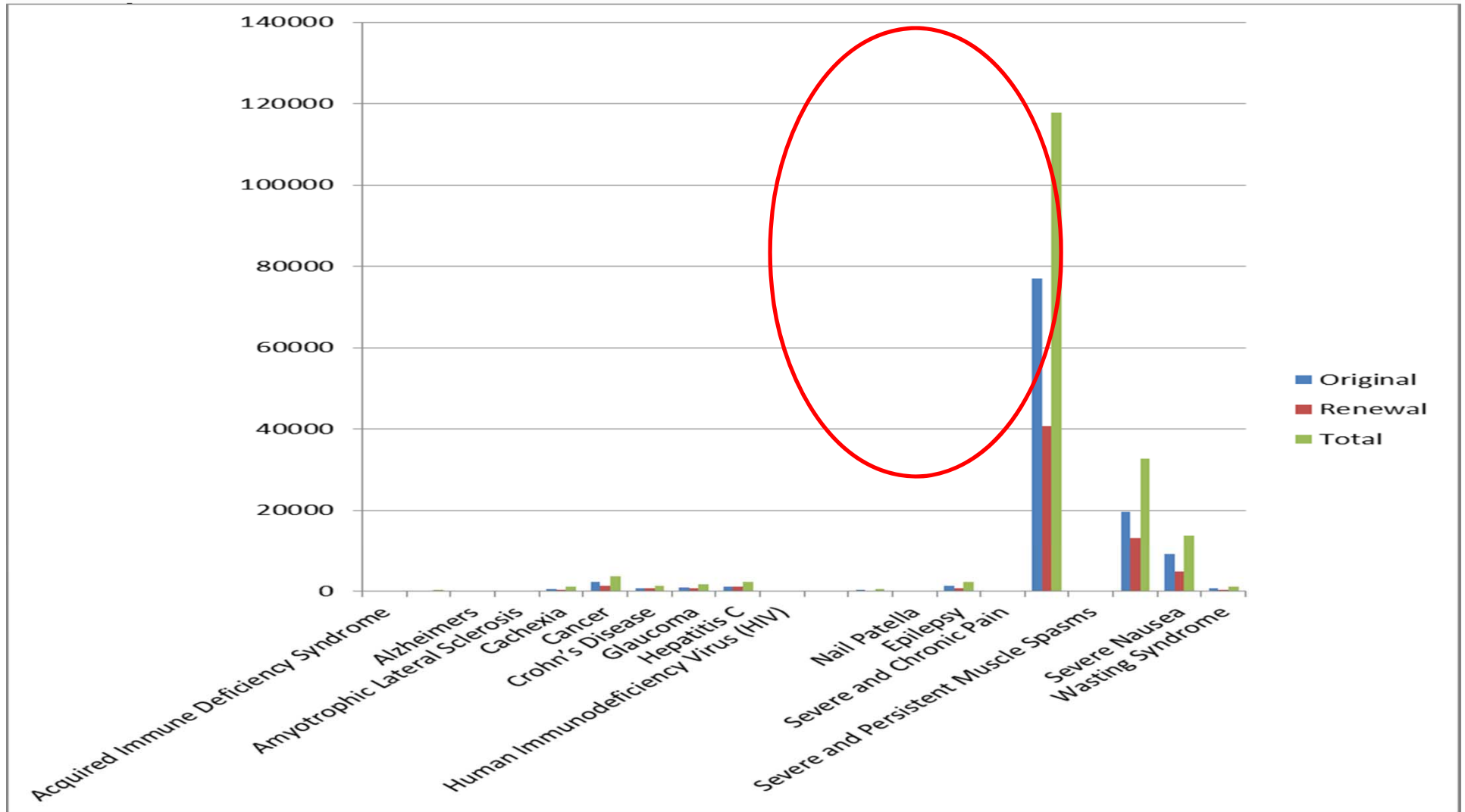
- An applicant submits a Department of Licensing and Regulatory Affairs (“LARA”) approved application, fee, copy of current photo ID and a physician certification to LARA.
 - Fee is \$60 for a patient and \$25 for a primary caregiver.
- LARA reviews and approves/denies application with 15 days of receipt.
- LARA issues registration card with 5 days of approval.
- The statute allows for a copy of the application submitted to serve as a valid registry identification card if the card is not issued within 20 days of its submission to LARA.



Changes in the Application Process-April 1, 2013

- Require an applicant for a registry ID card to submit proof of Michigan residency by providing a copy of driver license, State ID card, or voter registration See, *People v. Jones, No. 312065*, decided July 9, 2013, Michigan Court of Appeals
- Require LARA to issue a registry ID card within five business days of approving an application or renewal rather than within 5 days
- Provide that registry ID card would expire 2 years, rather than 1 year, after it was issued

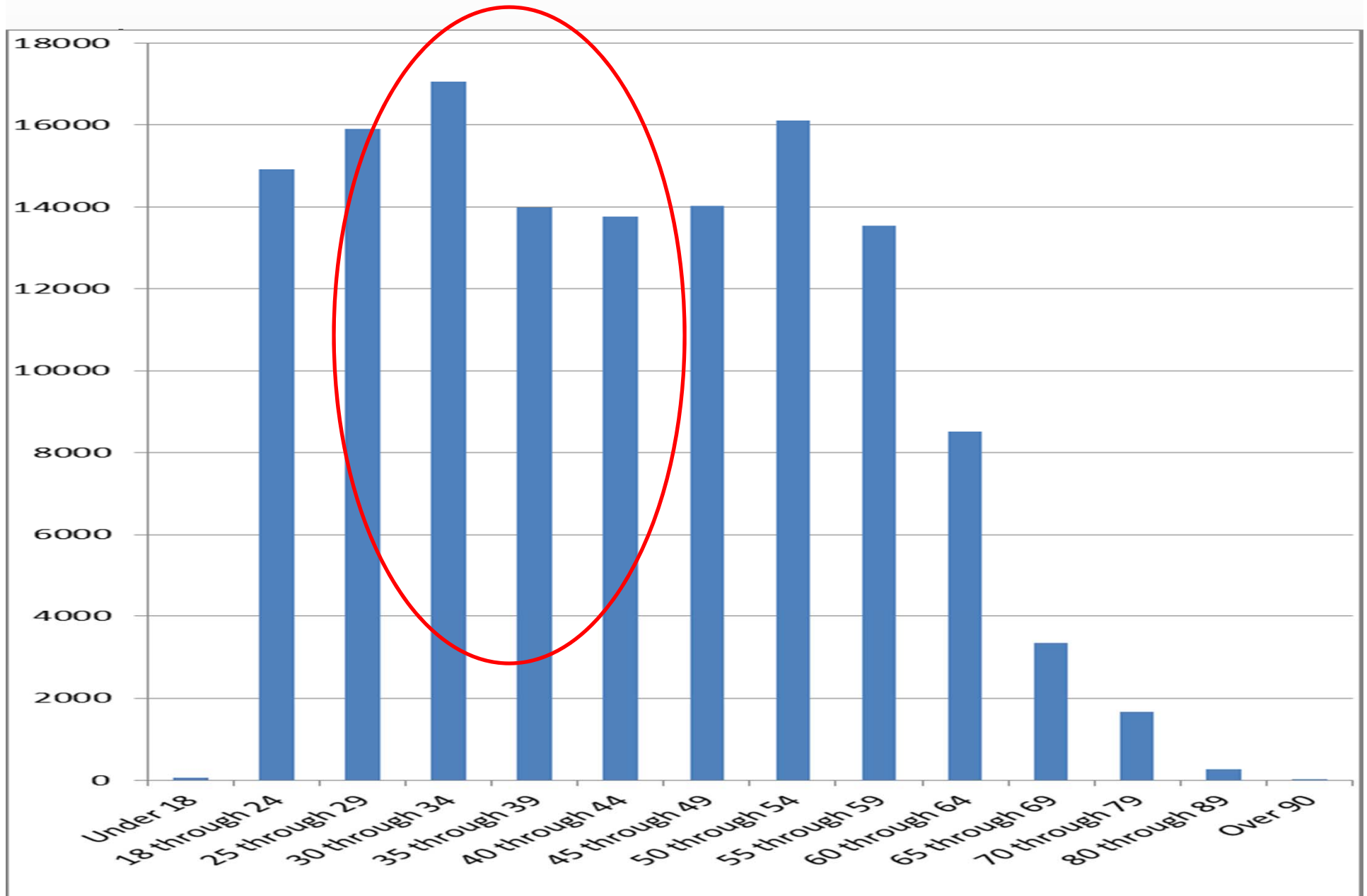
Qualifying Conditions



As of April 30, 2012, there are 133,250 active registered patients and approximately 51,930 active registered caregivers.

Michigan Medical Marihuana Act

Age of Registered Qualifying Patients





Confidentiality

- LARA keeps a confidential list of the individuals to whom it has issued a card.
- Law enforcement can check if a registration number is valid through LEIN.
- Verifications can **ONLY** be given to law enforcement personnel.





MCL 333.26426(h)(4)

- A person, including an employee or official of the department or another state agency or local unit of government, who discloses confidential information in violation of this act is guilty of a misdemeanor, punishable by imprisonment for not more than 6 months.
- Notwithstanding this provision, department employees may notify law enforcement about falsified or fraudulent information submitted to the department.





Identification Card System

LARA has established an identification card system for patients qualified to use Marihuana and individuals qualified to be primary caregivers.



Old Registry Identification Cards

**MICHIGAN DEPARTMENT OF COMMUNITY HEALTH
MEDICAL MARIHUANA PROGRAM**

**Marihuana Registry
Minor Patient
ID Card**

Registry Number: **P345678-110101**
Name: **Sample Card**
Address: 12345 Street
City, MI Zip
DOB: **02/03/1995**
Issued: **12/10/2009**
Expires: **01/01/2011**

**No
Photo
Available**

**NOT AUTHORIZED TO
POSSESS PLANTS**

M
04/09



**MICHIGAN DEPARTMENT OF COMMUNITY HEALTH
MEDICAL MARIHUANA PROGRAM**

**Marihuana Registry
Patient ID Card**

Registry Number: **P654987-110401**
Name: **Sample Card**
Address: 12345 Street
City, MI Zip
DOB: **08/01/1965**
Issued: **03/10/2010**
Expires: **04/01/2011**

**No
Photo
Available**

Authorized to Possess Plants: **YES**

P
04/09



**MICHIGAN DEPARTMENT OF COMMUNITY HEALTH
MEDICAL MARIHUANA PROGRAM**


**Marihuana Registry
Caregiver ID Card**

Registry Number: **C654987-789456**
Name: **Sample Card**
Address: 12345 Street
City, MI Zip
DOB: **04/12/1960**
Issued: **03/10/2010**
Expires: **04/10/2011**

**No
Photo
Available**

Authorized to Possess Plants: **YES**

C
04/09



Michigan Medical Marihuana Act

Newest Registry Identification Cards

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN MEDICAL MARIHUANA PROGRAM

Marihuana Registry Patient ID Card

NO PHOTO AVAILABLE

LARA
LICENSING AND REGULATORY AFFAIRS
CUSTOMER DRIVEN. BUSINESS MINDS.

Registry Number: **P987654-130401**
Name: **JOE SAMPLE**
Address: 123 MAIN ST
LANSING, MI 48911
DOB: **03/22/1960**
Issued: **03/19/2012**
Expires: **04/01/2013**
Authorized to Possess Plants: **YES**

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MEDICAL MARIHUANA PROGRAM

NO CAREGIVER

Rev. 3/12

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN MEDICAL MARIHUANA PROGRAM

Marihuana Registry Patient ID Card

NO PHOTO AVAILABLE

LARA
LICENSING AND REGULATORY AFFAIRS
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Registry Number: **P987654-130401**
Name: **JOE SAMPLE**
Address: 123 MAIN ST
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DOB: **03/22/1960**
Issued: **03/19/2012**
Expires: **04/01/2013**
Authorized to Possess Plants: **NO**

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MEDICAL MARIHUANA PROGRAM

CAREGIVER INFORMATION

Registry Number: **C999888-987654**
Name: **JOHN SAMPLE**
Address: 123 MAIN ST
LANSING, MI 48911
DOB: **06/24/1985**
Issued: **03/19/2012**
Expires: **04/01/2013**
Authorized to Possess Plants: **YES**

Rev. 3/12

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN MEDICAL MARIHUANA PROGRAM

Marihuana Registry Caregiver ID Card

NO PHOTO AVAILABLE

LARA
LICENSING AND REGULATORY AFFAIRS
CUSTOMER DRIVEN. BUSINESS MINDS.

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MEDICAL MARIHUANA PROGRAM

PATIENT INFORMATION

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Expires: **04/01/2013**

Rev. 3/12

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN MEDICAL MARIHUANA PROGRAM

Marihuana Registry Patient ID Card

NO PHOTO AVAILABLE

LARA
LICENSING AND REGULATORY AFFAIRS
CUSTOMER DRIVEN. BUSINESS MINDS.

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DOB: **06/24/1985**
Issued: **03/19/2012**
Expires: **04/01/2013**
AUTHORIZED TO POSSESS PLANTS

Rev. 3/12

Physician's Role

- Only a physician (MD or DO) fully licensed in Michigan can make a valid written certification
- The certifying physician is not prescribing marijuana, a physician cannot do so.
- The physician is not recommending marijuana; the law does not require them to do so.
- The physician is only stating an "opinion" as to the likelihood of a medical benefit, and can do so under the law without any legal or professional liability, except that a physician is always subject to professional malpractice.

Michigan Medical Marijuana Act





Written Certification-April 1, 2013

- The physician has completed a full assessment of the patient's medical history and current medical condition, including a relevant, in-person, medical evaluation.



Bona Fide Physician-Patient Relationship-April 1, 2013

- (1) The physician has reviewed the patient's relevant medical records and completed a full assessment of the patient's medical history and current medical condition, including a relevant, in-person, medical evaluation of the patient.
- (2) The physician has created and maintained records of the patient's condition in accord with medically accepted standards.
- (3) The physician has a reasonable expectation that he or she will provide follow-up care to the patient to monitor the efficacy of the use of medical marijuana as a treatment of the patient's debilitating medical condition.
- (4) If the patient has given permission, the physician has notified the patient's primary care physician of the patient's debilitating medical condition and certification for the use of medical marijuana to treat that condition.





Michigan Medical Marihuana Act

SEASIDE
GALLERY
GIFTSHOP
JEWELRY
2007

[Blacked out sign]

"EPK"

2007

Deep

THE GREEN
DOCTORS

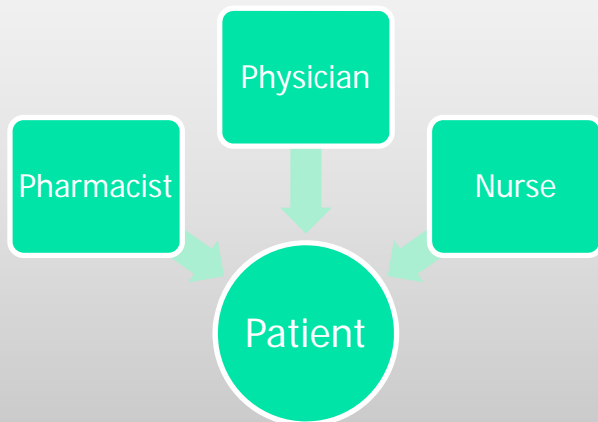
MARIJUANA
EVALUATION
\$40

\$40

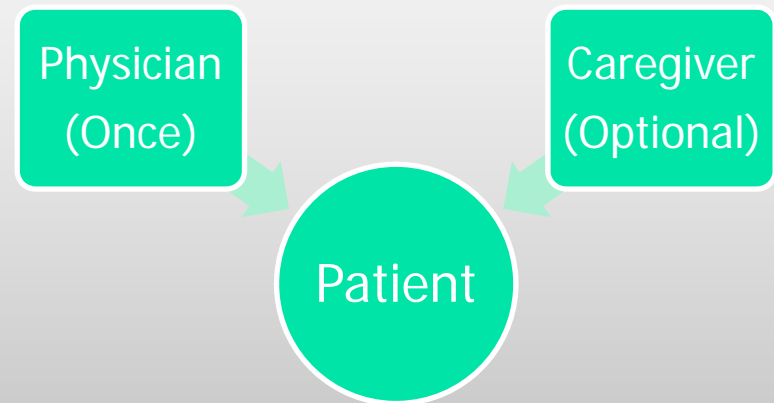
THE GREEN
DOCTORS
\$40
MEDICAL
MARIJUANA
CARD

MEDIA

Comparison with Prescriptions



- MAPS Report
- FDA Approval for drug
- DEA License for drug manufacturer
- DEA License for Physician
- DEA License for Pharmacist
- State License for Physician
- State License for Pharmacist
- State License for Nurse



- No MAPS Report
- No FDA Approval for drug
- No regulation for manufacturer
- No DEA License for Physician
- No Pharmacist
- No license for caregiver
- No requirement for physician to have contact with caregiver

Benefit of Participation in the Registry Identification Program

- A registered “Qualifying Patient” is allowed to possess an amount of marihuana that does not exceed 2.5 ounces of usable marihuana and allowed to cultivate 12 marihuana plants kept in an enclosed, locked facility.
- Either the Qualifying Patient or the Primary Caregiver can be allowed to possess the marihuana plants.
- A qualifying registered patient is protected from “arrest, prosecution, or penalty in any manner, or denied any right or privilege, including, but not limited to civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau” for medicinal use or possession of marihuana.

People v Nicholson, No. 306496 (Mich. App., June 26, 2012)

- The defendant was not immune from arrest because his application paperwork for a registry identification card under the MMMA was “not reasonably accessible at the location of his arrest.”
- However, because he possessed a registry identification card that had been issued before his arrest when being prosecuted, he was immune from prosecution unless there is evidence showing that his possession of marihuana at the time was not in accordance with "medical use" as defined in the MMMA or otherwise not in accordance with the MMMA.



Protection from Arrest, April 1, 2013

- Require a qualifying patient or primary caregiver to present both his or her registry identification card *and* a valid driver license or government-issued photo ID card, in order to be protected from arrest.



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Medical Use of Marihuana

- The acquisition, possession, cultivation, manufacture, use, internal possession, delivery, transfer, or transportation or paraphernalia relating to the administration of marihuana to treat or alleviate a registered qualifying patient's debilitating condition or symptoms. MCL 333.26423(e).





Marihuana Strains

- Durban Poison
- Tangelo Haze
- Mental Haze
- LA Confidential
- Spirit of 76
- Banana Kush
- Hindu Skunk
- Grape Ape
- Bubba Kush
- Purple Cotton
- Razzle Dazzle
- Pink Lady
- Blue Diesel
- Green Crack
- FU Cali
- ESCOBAR



State of Michigan v. McQueen, No. 143824 (Mich. Sup. Ct., February 8, 2013)

- The Michigan Supreme Court clearly stated on page 10 that: “In contrast to several other states’ medical marihuana provisions, the MMMA does not explicitly provide for businesses that dispense marihuana to patients.”



Michigan Medical Marihuana Act

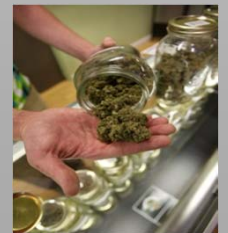
State of Michigan v. McQueen, No. 143824 (Mich. Sup. Ct., February 8, 2013)

- “Thus, § 4 immunity does not extend to a registered qualifying patient who transfers marijuana to another registered qualifying patient for the transferee’s use because the transferor is not engaging in conduct related to marijuana for the purpose of relieving **the transferor’s own** condition or symptoms.”



State of Michigan v. McQueen, No. 143824 (Mich. Sup. Ct., February 8, 2013)

- “Similarly, § 4 immunity does not extend to a registered primary caregiver who transfers marijuana for any purpose other than to alleviate the condition or symptoms of a specific patient **with whom the caregiver is connected through the MDCH’s registration process.**”



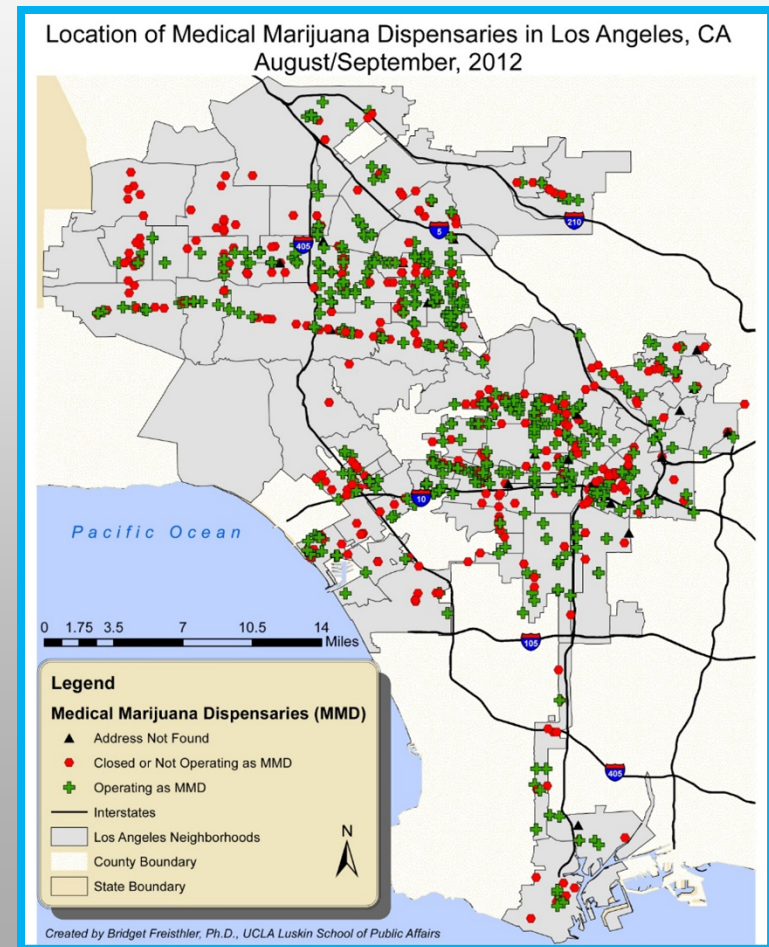
House Bill No. 4209/Senate Bill 0142- Dispensaries

- "Medical marihuana provisioning center" or "provisioning center" means a commercial entity located in this state that acquires, possesses, cultivates, manufactures, delivers, transfers, or transports medical marihuana and sells, supplies, or dispenses medical marihuana to registered qualifying patients, directly or through the patients' registered primary caregivers.
- Provisioning center includes any commercial property where medical marihuana is sold to registered qualifying patients and registered primary caregivers.

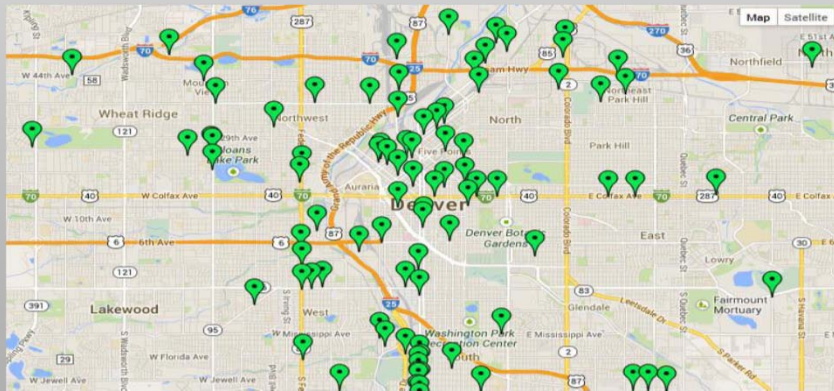
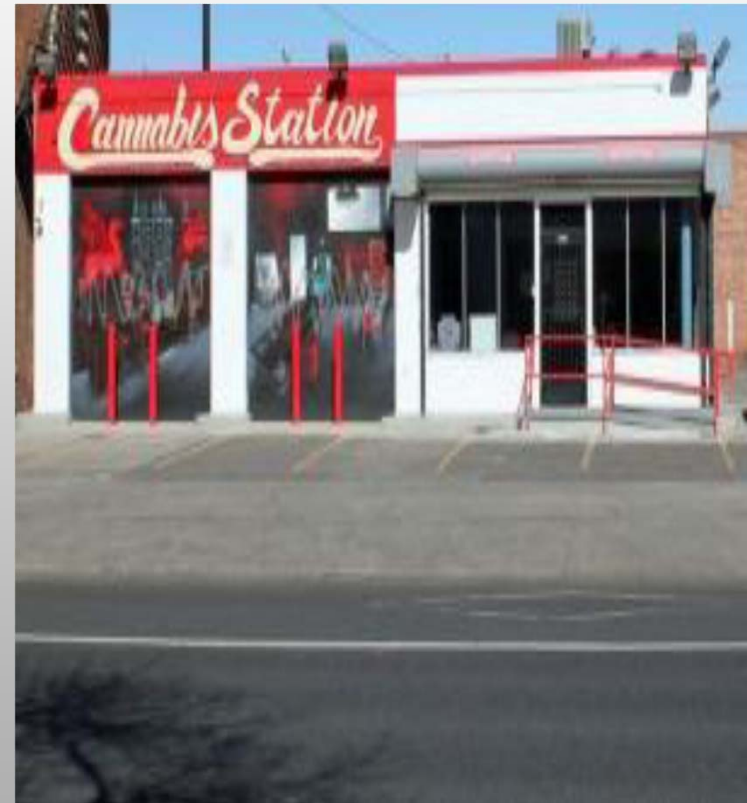


Medical Marijuana Dispensaries in Los Angeles County

- Medical marijuana dispensaries developed as a means to cultivate and distribute medical marijuana
- In 2007, the City of Los Angeles capped the number of licensed dispensaries at 187
- Thousands of unregulated dispensaries still operate
- Because of conflicts over land use and zoning, marijuana delivery services have developed



Denver, Colorado



Michigan Medical Marihuana Act

SUMMIT



**BUY ONE
GET ONE** **JOINT**
WITH \$50 PURCHASE

MUST PRESENT COUPON AT TIME OF PURCHASE | ONE TIME USE ONLY

861 N. SUMMIT BLVD

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hwy 9

Marihuana-MCL 333.7106

- “Marihuana” means all parts of the plant *Cannabis sativa* L., growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin.



Usable Marihuana- MCL 333.26423(j)

- The dried leaves and flowers of the Marihuana plant, and any mixture or preparation thereof, but does not include the seeds, stalk, and roots of the plant.
MCL 333.26423(j).



People v Carruthers, No. 309897 (Mich. App., July 11, 2013)

- The Court held “that edibles made with THC extracted from marihuana resin are not” usable marihuana” under the MMMA.
- The brownies were not a “mixture or preparation” of “dried leaves and flowers of the marihuana plant.” MCL 333.26423(k).
- Therefore, the brownies were not “usable marihuana” under the MMMA, and none of the weight of the brownies should have been counted towards the determination of whether defendant possessed over 12.5 ounces of usable marihuana.”



People v Randall, No. 318740 (Mich. App., March 6, 2015)

- “Even though the seized marihuana plant material at issue was not “usable marihuana” because it was not dry yet, the marihuana nonetheless *was* authorized under the MMMA.”
- “MCL 333.26423(f)'s definition of ‘medical use’ expressly includes ‘cultivation,’ and the cultivation of marihuana necessarily must include the act of cutting and drying of plant material, especially since ‘usable marihuana’ only consists of ‘the *dried* leaves and flowers of the marihuana plant.’”
- Therefore, the drying plant material was in connection with the medical use or cultivation of marihuana and should not preclude a Section 4 defense.



Medibles



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Pot Tarts



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More Medibles



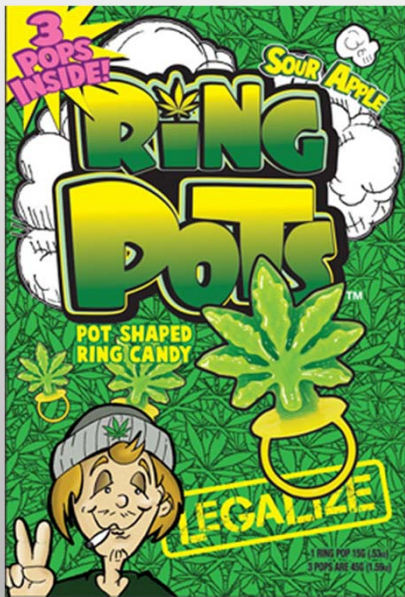
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Other Products



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Marketing to Children



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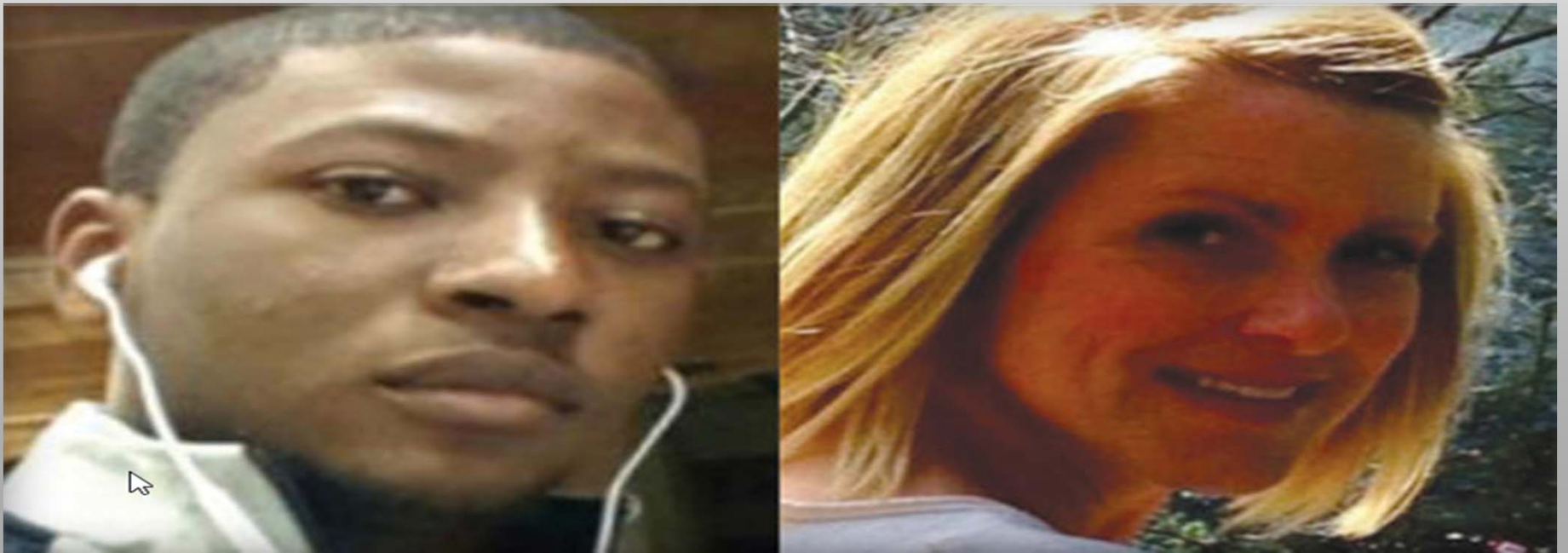


of suspected crack cocaine and marijuana



Two Denver deaths tied to recreational marihuana use

- One man jumped to his death after consuming a large amount of marihuana contained in a cookie, and in the other case, a man allegedly shot and killed his wife after eating marihuana candy.



Budtenders



Michigan Medical Marihuana Act

Ultimate Beginner's Grow Guide

HIGH TIMES

Dabs!

**POT'S MOST
POWERFUL HIGH**

**Creating
Cleaner
Concentrates**

**Growing
Classic Strains**

**Roseanne
On Reefer**

On The Opium Trail

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Marihuana Dabs

- Dabs are a type of solidified hash oil also known as “concentrates,” BHO (Butane Hash Oil) or more popularly, “wax”—so-named for its texture and glassy appearance.
- Most commonly created by a technique in which high quality pot is blasted with butane that is then extracted
- Dabs cannabis concentrates approach 70%-to-90% THC.

Marihuana Dabs



Michigan Medical Marihuana Act

Michigan State Police
Western Wayne Narcotics Case 2013





WXYZ-TV/Morning Rush

Liquid Marijuana

- E-Liquid and Smoke Drops



Michigan Medical Marijuana Act

House Bill No. 4210/Senate Bill 0140-Medibles

- Revise the definition of "usable marihuana" to include, in addition to dried leaves and flowers, the plant resin or extract of the marihuana plant.
- Define "marihuana-infused product" to mean a topical formulation, tincture, beverage, edible substance, or similar product containing any usable marihuana that is intended for human consumption in a manner other than smoke inhalation.
- Define "usable marihuana equivalent" as the amount of usable marihuana in a marihuana-infused product. To determine usable marihuana equivalency, the bill would specify that one ounce of usable marihuana would be considered equivalent to (1) 16 ounces of marihuana-infused product if in a solid form; (2) 7 grams if in a gaseous form; and (3) 74 fluid ounces if in a liquid form. In determining whether a patient or primary caregiver did not exceed the 2.5 ounces per patient possession limit, both usable marijuana equivalents and usable marihuana would have to be considered."



Medical Marijuana Bills-2015







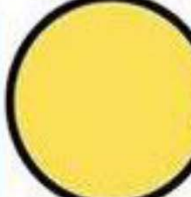
- SB 0072 of 2015
- SB 0080 of 2015
- SB 0094 of 2015
- SB 0140 of 2015 (Edibles)
- SB 0141 of 2015
- SB 0142 of 2015 (Dispensaries)
- HB 4209 of 2015 (Dispensaries)
- HB 4210 of 2015 (Edibles)



UNIVERSAL 420 Highness Chart 2.6

Made by Talisman, edited by anon, Talisman again, and me.

Chart for assessing how high the individual is using textual summaries and pictures for maximum accuracy.
 Note: Summaries are not limited to what they contain, any individual can experience different effects, effects vary greatly from person to person due to factors like height, weight, age, and tolerance.

| | 0 | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 |
|-----------------------------------|---|--|--|--|--|--|--|---|---|---|----|----|
| | Sober | Buzzed | High | Really High | Blazed | In Space | ??? | | | | | |
| |  |  |  |  |  |  |  | | | | | |
| Summary: | Completely normal, you feel nothing out of the ordinary. | You can tell you are slightly high, things are more interesting, everything seems "thicker". | You are high, slight craving for food, you tend to stare at objects and into space often, you feel relaxed but somewhat in a daze. | You are fully high, there is a slight vibration in your body, focusing is hard, your having very random thoughts. Putting together sentences is a challenge. Few if any audial hallucinations. | Very high, vibrations and waves of euphoria rush through your body every 5-9 seconds. Experiencing mild CEV's, everything dark as a sparkling texture, everything is brighter. Some audial hallucinations. | Completely lost in thought, amazing pleasure, you feel like a god, you see strong CEV's; sparkling textures everywhere, everything is brightened, mild/strong audial hallucinations. | Few users can ever reach this level of high, some people report full on hallucinations and dissociation similar to a high does of psychedelics in addition to the effects of being a "10". | | | | | |
| Concentration interference | Completely alert | Easily ignored | challenging to ignore | Very hard to ignore | Impossible to ignore | Dude... what? | 🌀🌀🌀🌀🌀🌀🌀 | | | | | |

Qualifications for Registered Primary Caregiver

- The patient designates an individual as the primary caregiver on the patient's registration application form.

The primary caregiver shall:

- be 21 years old;
- have no felony convictions involving illegal drugs;
- agree to assist patient with medical use of marijuana.



Qualifications for Registered Primary Caregiver-April 1, 2013

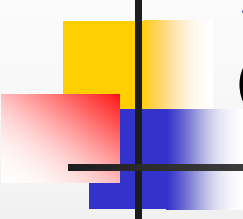
- Revise the definition of “primary caregiver” to refer to a person who has not been convicted of any felony within the past 10 years
- Never been convicted of a felony involving illegal drugs or a felony that is an “assaultive crime” as defined in Michigan Compiled Law 770.9a





Possession, Cultivation, and Plant Limits for a Registered Primary Caregiver

- Not to exceed 2.5 ounces of usable marihuana for each qualifying patient to whom he or she is **connected through the department's registration process**. MCL 333.26424(b)(1).
- For each registered qualifying patient who has specified that the primary caregiver will be allowed under state law to cultivate marihuana for the qualifying patient, 12 marihuana plants kept in an enclosed, locked facility. MCL 333.26424(b)(2).



People v. Bylsma, No. 144120 (Mich. Sup. Ct., December 19, 2012)

- “Section 4 does not allow the collective action that defendant has undertaken.”
- Because defendant possessed more plants than § 4 allows and he possessed plants on behalf of patients with whom he was *not* connected through the MDCH’s registration process, defendant is not entitled to § 4 immunity.”
- However, “The Court of Appeals erred when it concluded that defendant was not entitled to assert the § 8 affirmative defense solely because he did not satisfy the possession limits of § 4.”



Not Subject to Arrest

These primary caregivers shall not be subject to arrest, prosecution, or civil penalty or disciplinary action by a business or professional licensing board or bureau, for the medical use of Marihuana. MCL 333.26424(b).



What About the Plants?

- Michigan does not limit the size or distinguish between seedlings and mature, producing plants.
- 12 plants can produce quite a bit of marihuana. The annual yield of a 12 plant indoor marihuana grow site would generate between 44 and 72 ounces.
- Is a dead plant a plant? Is a cutting a plant? Is a clone a plant? Is a seedling considered a plant if it has a root system?
- It can be assumed that the primary caregiver is not legally allowed to keep part of the “harvest” as payment.

Google Map 2010



Google earth

feet
meters



Michigan Medical Marihuana Act



DEA Flyover 2011



Michigan Medical Marihuana Act



Plant Size



Michigan Medical Marihuana Act

Marihuana Plants-Separated



Michigan Medical Marihuana Act

Harvested Marihuana



Michigan Medical Marihuana Act

Processing Evidence



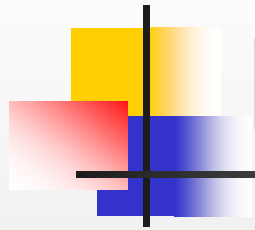
Michigan Medical Marihuana Act

Obtaining Medical Marihuana

- The Act is silent on this issue.
- The State of Michigan is not authorized to regulate growing sites or quality of product under this Act.



Michigan Medical Marihuana Act



Enclosed, Locked Facility

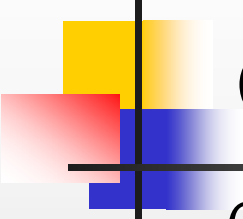
A closet, room, or other enclosed area equipped with locks or other security devices that permit access only by a registered primary caregiver or registered qualifying patient. MCL 333.26423(c).



Michigan Attorney General's Position-June 28, 2011

- The Attorney General opined that “The Michigan Medical Marihuana Act, prohibits the joint cooperative cultivation or sharing of marihuana plants because each patient’s plants must be grown and maintained in a separate enclosed, locked facility that is only accessible to the registered patient or the patient’s registered primary caregiver.”





People v. King, Shiawassee Circuit Court, September 30, 2009

- Chain-link dog kennel behind the house, 6 feet tall, but had an open top and was not anchored to the ground.
- Marihuana plants growing inside defendant's unlocked living room closet.
- Defendant charged with two counts of manufacturing marihuana.
- Defendant asserted affirmative defense under Section 8 of the Act.
- Prosecutor argued that the Defendant failed to comply with the Act because marihuana plants not in an enclosed, locked facility.
- The Circuit Court agreed with the Defendant and dismissed the case.

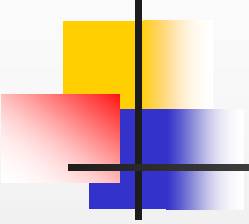


People v. King, 9/30/09

- The Shiawassee County Circuit Court ruled that “The Defendant was present at the time of the arrival of the police and he was there at the time the police searched the property. Therefore, the Defendant was acting as the security device by limiting access to the marijuana.”

Michigan Medical Marijuana Act





People v King, No. 294682 (Mich. App.,
February 3, 2011)

- “The kennel had a lock on the chain-link door, but had no fencing or other material over the top and it could be lifted off the ground.”
- “Enclosed area” follows the word “closet” and “room,” both of which have specific limited meanings and which have the common characteristic of being stationery and closed on all sides.



Enclosed, Locked Facility-April 1, 2013

A closet, room, or **other comparable, stationary, and fully enclosed area** equipped with secured locks or other **functioning** security devices that permit access only by a registered primary caregiver or registered qualifying patient. MCL 333.26423(d).





Enclosed, Locked Facility-Plants Grown Outdoors-April 1, 2013

- Not visible to the unaided eye from an adjacent property when viewed by an individual at ground level or from a permanent structure and are grown within stationary structure that is enclosed on all sides
- Conditional on where you live and not seen by the unaided eye-the exceptions would be for the base, by chain-link fencing, wooden slats, or a similar material that prevents access by the general public and that is anchored, attached, or affixed to the ground
- Located on land that is owned, leased, or rented by either the registered qualifying patient or the registered primary caregiver
- Equipped with functioning locks or other security devices restricting access only to the registered qualifying patient or the registered primary caregiver.



Enclosed, Locked Facility?



Michigan Medical Marihuana Act



Enclosed, Locked Facility- Motor Vehicle-April 1, 2013

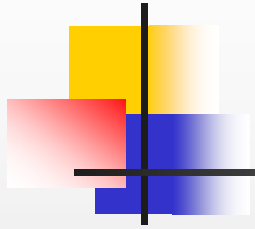
- The vehicle is being used temporarily to transport living marihuana plants from 1 location to another with the intent to permanently retain those plants at the second location
- An individual is not inside the vehicle unless he or she is either the registered qualifying patient to whom the living marihuana plants belong or the individual designated through the departmental registration process as the primary caregiver for the registered qualifying patient.



Transporting "Usable Marihuana"

Motor Vehicle-MCL 750.474-12/27/12

- Enclosed in a case that is carried in the trunk of a vehicle
- Enclosed in a case that is not readily accessible from the interior of the vehicle, if the vehicle in which the person is traveling does not have a trunk
- Misdemeanor-93 days or a fine of not more than \$500.00, or both.



In the Presence or Vicinity

“A person shall not be subject to arrest or prosecution, solely for being in the presence or vicinity of the medical use of marihuana, or for assisting a registered qualifying patient with using or administering marihuana.” MCL 333.26424(i).

State of Michigan v. McQueen, No. 143824 (Mich. Sup. Ct., February 8, 2013)

- “In this context, the terms “using” and “administering” are limited to conduct involving the actual ingestion of marihuana. Thus, by its plain language, § 4(i) permits, for example, the spouse of a registered qualifying patient to assist the patient in ingesting marihuana, regardless of the spouse’s status. However, § 4(i) does not permit defendants’ conduct in this case.”
- “The transfer, delivery, and acquisition of marihuana are three activities that are part of the ‘medical use’ of marihuana that the drafters of the MMMA chose **not** to include as protected activities within Section 4(i).”





Seizure and Forfeiture

“Any marihuana, marihuana paraphernalia, or licit property that is possessed, owned, or used in connection with the medical use of marihuana, as allowed under this act, or acts incidental to such use, shall not be seized or forfeited.” MCL 333.26424(h).



No Probable Cause

The possession or application for a registry identification card does not constitute probable cause or reasonable suspicion and can not be used to support the search of the person or property of an individual who possesses or applies for a card, or otherwise subject the person to inspection by local, county, or state governmental agencies. MCL 333.26426(g).



People v. Anthony Brown, No. 303371 (Mich. App., August 28, 2012)

- The Court held “That to establish probable cause, a search-warrant affidavit need not provide facts from which a magistrate could conclude that a suspect’s marihuana-related activities are specifically not legal under the MMMA.”
- Footnote 5: “While we decline, in light of the pertinent case law, to impose an affirmative duty on the police to obtain information pertaining to a person’s noncompliance with the MMMA before seeking a search warrant for marihuana, if the police do have **clear and uncontroverted** evidence that a person is in full compliance with the MMMA, this evidence must be included as part of the affidavit because such a situation would not justify the use of a warrant.”



People v. Vansickle, No. 309555 (Mich. App., November 5, 2013)

- Falsely posing as a medical marijuana patient is not entrapment.
- The evidence established that defendant was not a target of the undercover investigation of the marijuana dispensary, and the officers were not familiar with defendant.
- Instead, the officers happened to have had contact with defendant inside the marijuana dispensary's waiting room. Defendant admitted that he was there to transfer his excess marijuana and obtain reimbursement for his expenses.





Custody or Visitation

- A person shall not be denied custody or visitation of a minor for acting in accordance with this act, unless the person's behavior is such that it creates an **unreasonable danger** to the minor that can be clearly articulated and substantiated. MCL 333.26424(c)



Michigan Attorney General's Position- May 10, 2013

- A properly registered patient or primary caregiver, who engages in the “medical use” of marihuana “in accordance with” the Michigan Medical Marihuana Act (MMMA) may invoke the protections provided in sections 4(a) and (b) of the Act in a child-protective proceeding under the Michigan Juvenile Code.
- But the protections are subject to the exception in section 4(c) of the MMMA for behavior that creates an unreasonable danger to a minor that can be clearly articulated and substantiated. MCL 333.26424(c).

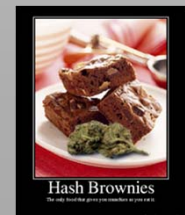


Michigan Attorney General's Position- May 10, 2013

- To invoke the protections provided for in sections 4(a) and (b) of the Michigan Medical Marihuana Act, in a child-protective proceeding under the Michigan Juvenile Code, a patient or primary caregiver must have been issued and possess a valid registry identification card.
- **The affirmative defense provided for in section 8(a) of the MMMA only applies in a criminal prosecution, and thus is not available in a child-protective proceeding under the Juvenile Code. MCL 333.264248(a).**

What Are Some Thoughts?

- Treat it like other medicines and keep it out of the reach of children!
- If cooking, clearly label any resultant food products as medicinal, and store them in a safe place, out of the reach of children!
- Use discretion when medicating and avoid doing so when children are present!
- Never operate a motor vehicle after medicating!



Criminal Section in the MMMA

- “Any registered qualifying patient or registered primary caregiver who **sells** marihuana to someone who is not allowed to use medical marihuana for medical purposes under this act shall have his or her registry identification card revoked and is guilty of a felony for not more than 2 years.” MCL 333.26424(k)
- Effective, December 27, 2012-Class G felony against the public trust.





What is Prohibited Under MCL 333.2647(b)

- Smoking marihuana “in any public place”
- Smoking marihuana on any form of public transportation
- Undertake any task under the influence of marihuana, when doing so would constitute negligence or professional malpractice
- Operating, navigating, or being in actual physical control of any motor vehicle, aircraft, or motorboat while under the influence of marihuana
- Any use or possession on the grounds of any preschool, primary, or secondary school
- Any use or possession in any correctional facility



Other Michigan Laws

MCL 333.26427(e) reads that:
“All other acts and parts of acts inconsistent with this act do not apply to the **medical use** of marihuana as provided by this act.”

Operation of a Motor Vehicle

- Although the Act prohibits the operation of any motor vehicle while under the influence of Marihuana; it does not make reference to Michigan's current OUID Per Se Law.



Michigan Medical Marihuana Act



People v Koon, No. 145259 (Mich. Sup. Ct., May 21, 2013)

- “The immunity from prosecution provided under the MMMA to a registered patient who drives with indications of marihuana in his or her system but is not otherwise under the influence of marihuana inescapably conflicts with MCL 257.625(8), which prohibits a person from driving with any amount of marihuana in her or system.”
- “Under the MMMA, all other acts and parts of acts inconsistent with the MMMA do not apply to the medical use of marihuana. Consequently, MCL 257.625(8) does not apply to the medical use of marihuana.”



People v Koon, No. 145259 (Mich. Sup. Ct., May 21, 2013)

- “As the Legislature contemplates amendments to the MMMA, and to the extent it wishes to clarify the specific circumstances under which a registered patient is per ‘under the influence’ of marihuana, it might consider adopting a ‘legal limit,’ like that applicable to alcohol, establishing when a registered patient is outside the MMMA’s protection.”
- The Supreme Court mentioned Washington’s legal limit of 5 ng/ml as an example.

Michigan Medical Marihuana Act



People v Feezel, No. 138031 (Mich. Sup. Ct., June 8, 2010)

- 11-Carboxy-THC ("TCOOH") is not a derivative of marijuana.
- The *Feezel* Court removed 11-Carboxy-THC ("TCOOH") from the list of Schedule 1 "controlled substances" that can be considered under MCL 257.625(8).



OUID LAW in Michigan

- If any amount of a schedule one controlled substance (e.g. marihuana) or cocaine in body, the Prosecutor does not need to prove that suspect was under the influence or impaired. MCL 257.625(8). If it is not a schedule one or cocaine, the Prosecutor must prove operating under the influence or impaired. MCL 257.625(1).
- 11-Carboxy THC ("TCOOH") is not a schedule 1 controlled substance -- the prosecution can not charge a defendant for OUID Per Se if the defendant only has 11-Carboxy THC ("TCOOH") in his/her system. *People v. Feezel*, No. 138031 (Mich. Sup. Ct., June 8, 2010).



NHTSA Roadside Survey-2/6/15

- Alcohol use has declined dramatically. Only 1.5% of weekend nighttime drivers had BACs at or above .08.
- However, 22.5% tested positive for drugs, an increase from 16.3% in 2007. 12.6% were positive for marihuana, compared to 8.6% in 2007.



Attitudes

A study of college-aged American youth showed that they perceived driving after cannabis use as more acceptable than driving after alcohol use.

McCarthy, D.M, Lynch, A.M., & Pederson, S.L. (2007). Driving after use of alcohol and marihuana in college students. *Psychology of Addictive Behaviors*, 21(3), 425-430.



The Importance of THC Hour 1

- Scientific studies show that a person smoking marijuana often has 50-80 nanograms of THC in their blood after their last puff
- 30 minutes later, that level can drop to 15-16 nanograms-an 80% drop in THC.
- 1 hour later after the last puff, the level likely drops to 5-6 nanograms.
- THC levels can then drop to 2-3 nanograms after 90 minutes, trickling off over a few



Estimated Duration of Effects of Marihuana

- Peak: 10 – 30 minutes after last consumption (smoking*)
 - Duration: 2 – 3 hours
 - Dissipates: 3 - ^ hours
 - Residual Effects: Up to 24 hours (showing as inactive metabolite, carboxy-THC)
- *If consumed in an edible form, the “high” takes longer to reach peak, and duration is longer.



General Indicators of Marijuana Consumption and Impairment



- Odor of marijuana
- Relaxed inhibitions
- Marked reddening of the conjunctiva (whites of the eyes)
- Body tremors
- Disorientation
- Eyelid tremors
- Lack of convergence
- Impaired perception of time and distance
- Marijuana debris in or around the mouth
- Raised taste buds

Signs of Impairment



Slow Deliberate Speech

Admitted to Smoking marihuana

Finger to Nose Clues

No HGN Clues

Eyes Red
Dilated with Droopy Eyelids
Lack of convergence
Eyelid Flutters

Below Normal Blood Pressure

Blood contained THC

Leg Tremors

Walk and Turn Clues

Car Crashed in Ditch

Marihuana and pipe found



Michigan Medical Marihuana Act



NHTSA Impaired Driving Programs

Drug Evaluation & Classification Program



Advanced Roadside Impaired Driving Enforcement



Standardized Field Sobriety Testing

Marihuana Involved in Fatal Crash



Michigan Medical Marihuana Act



Statutory Affirmative Defense-Section 8

MCL 333.26428(a) states that "Except as provided in Section 7, a patient and a patient's primary caregiver, if any, may assert, the medical purpose for using marihuana as a defense to any prosecution involving marihuana."



Evidentiary Hearing

- Pursuant to MCL 333.26428(a)(3), “A person may assert the medical purpose for using marihuana in a motion to dismiss, and the charges shall be dismissed following an evidentiary hearing where the person shows the elements listed in subsection (a).”



Element #1 Under Section 8: Physician's Statement

A physician (Licensed M.D./D.O.) has stated that:

- In the physician's professional opinion
- After having completed a full assessment of the patient's medical history and patient's medical condition
- Which assessment was made in the course of a bona-fide physician-patient relationship
- That the patient is likely to receive therapeutic or palliative benefit
- From the medical use of marihuana
- To treat or alleviate the patient's serious or debilitating medical condition or symptoms of the patient's serious or debilitating medical condition.



Element #2 Under Section 8: Reasonably Necessary Quantity

The patient and the patient's primary caregiver, if any, were collectively:

- In possession of a quantity of marijuana that was:
- Not more than was reasonably necessary
- To ensure the uninterrupted availability of marijuana
- For the purpose of treating or alleviating the patient's serious or debilitating medical condition or symptoms of the patient's serious or debilitating medical condition.



Element #3 Under Section 8: Medical Use

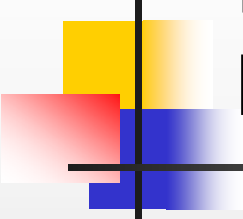
The patient and the patient's primary caregiver

- Were engaged in the:
- Acquisition, possession, cultivation, manufacture, use, delivery, transfer, or transportation of marihuana or paraphernalia relating to the use of marihuana
- To treat or alleviate the patient's serious or debilitating medical condition or symptoms of the patient's serious or debilitating medical condition.



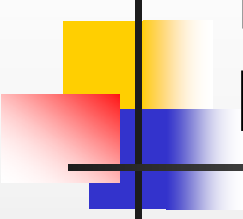
People v. Redden, Concurrence

- Footnote 20, page 15:
- “It is beyond question that 100, 500, 1,000 terminally ill patients, with a 10 minute examination, has not been acting pursuant to bona fide physician-patient relationship.”
- “A revolving-door rubber-stamp, assembly line certification process does not constitute activity in the course of a bona fide physician-patient relationship.”



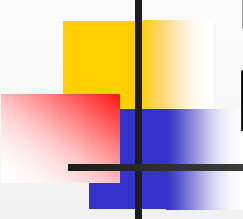
People v. Kolanek, and People v. King,
Nos. 142712 and 142695 (Mich. Sup. Ct.,
May 31, 2012)-Holding #1

- Persons who do not qualify for immunity under § 4 (whether because unregistered at the time or because in possession of too much marihuana or not in an enclosed locked facility) may still raise a § 8 defense that their possession of marihuana was for medical purposes; the § 4 factors need not be shown to have a valid affirmative defense under § 8.



People v. Kolanek, and People v. King,
Nos. 142712 and 142695 (Mich. Sup. Ct.,
May 31, 2012)-Holding #2

- A defendant who moves for dismissal of criminal charges under § 8 must raise the defense in a pretrial motion and evidentiary hearing, and has the burden of proof at the hearing; the § 8 defense may not be raised for the first time at trial.



People v. Kolanek, and People v. King,
Nos. 142712 and 142695 (Mich. Sup. Ct.,
May 31, 2012)-Holding #3

- The defendant is entitled to dismissal of criminal charges if at the hearing he establishes all the elements of a § 8 defense, including a statement from a physician in the course of a bona fide physician-patient relationship.

People v. Kolanek, and People v. King,
Nos. 142712 and 142695 (Mich. Sup. Ct.,
May 31, 2012)-Holding #4

- The physician's statement must have been obtained after enactment of the MMMA but before the commission of the offense.



Michigan Medical Marijuana Act

People v. Kolanek, and People v. King,
Nos. 142712 and 142695 (Mich. Sup. Ct.,
May 31, 2012)-Holding #5

- If there are no questions of fact and no jury could reasonably find a § 8 defense, the motion to dismiss must be denied and the defendant may not present the § 8 defense to the jury.



People v. Dehko, No. 305041 (Mich. App., March 21, 2013)

- The mere certification does not provide any information regarding how much marihuana defendant should use for treatment.
- Further, defendant did not explain below how a marihuana cultivation expert possessed the medical knowledge or information to address defendant's medical condition and the amount of marihuana defendant needed for his allegedly serious or debilitating health condition.
- Because defendant failed to establish a question of fact with respect to this element of the § 8 defense, he was not entitled to assert the § 8 defense at trial."





People v. Archie Kiel, No.
301427 (Mich. App., July 17, 2012)

The following *dicta* language from the opinion:

- "The fact that these individuals were registered with the state as medical marihuana users is prima facie evidence of the first and third elements." (p. 6).



People v. Hartwick, No. 312308
(Mich. App., November 19, 2013)

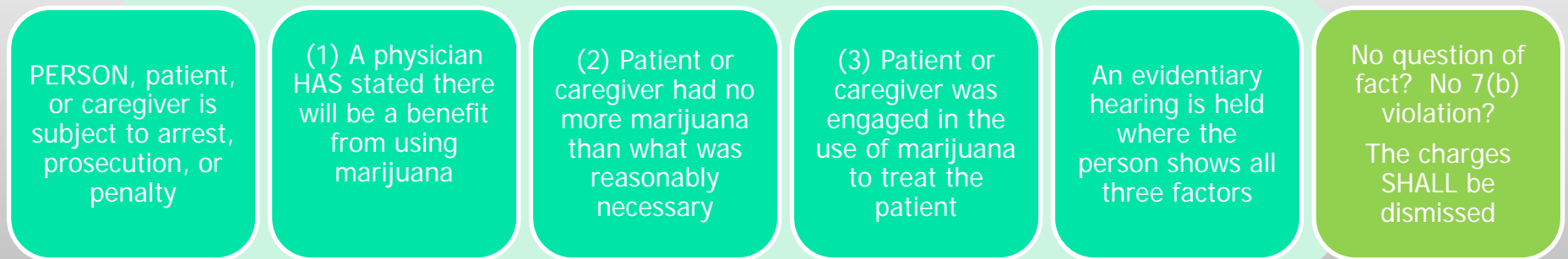
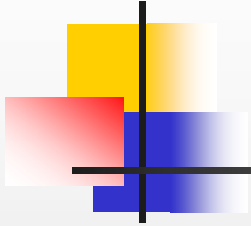
- “Possession of a registry card indicates that the holder has gone through the requisite steps in § 6 required to obtain a registry card. It does not indicate that any marihuana possessed or manufactured by an individual is *actually* being used to treat or alleviate a debilitating medical condition or its symptoms.”
- “In other words, prior state issuance of a registry card does not guarantee that the holder’s subsequent behavior will comply with the MMMA. Defendant’s theory is akin to stating that possession of a Michigan driver’s license ensures the holder of the license always obeys state traffic laws.”



People v. Hartwick, No. 312308
(Mich. App., November 19, 2013)

- “We note that another panel of this Court held in an unpublished, per curiam opinion that an individual’s state registration as a medical marihuana user is “prima facie evidence of the first and third elements of the affirmative defense.” *People v Kiel*, entered July 17, 2012 (Docket No. 301427).”
- “The panel did not explain its reasoning beyond this statement. We do not agree with this interpretation of the MMMA. In addition, defendant did not cite *Kiel* in his brief, nor is *Kiel* binding precedent, because it is unpublished. MCR 7.215(C)(1).”

The Section 8 Affirmative Defense

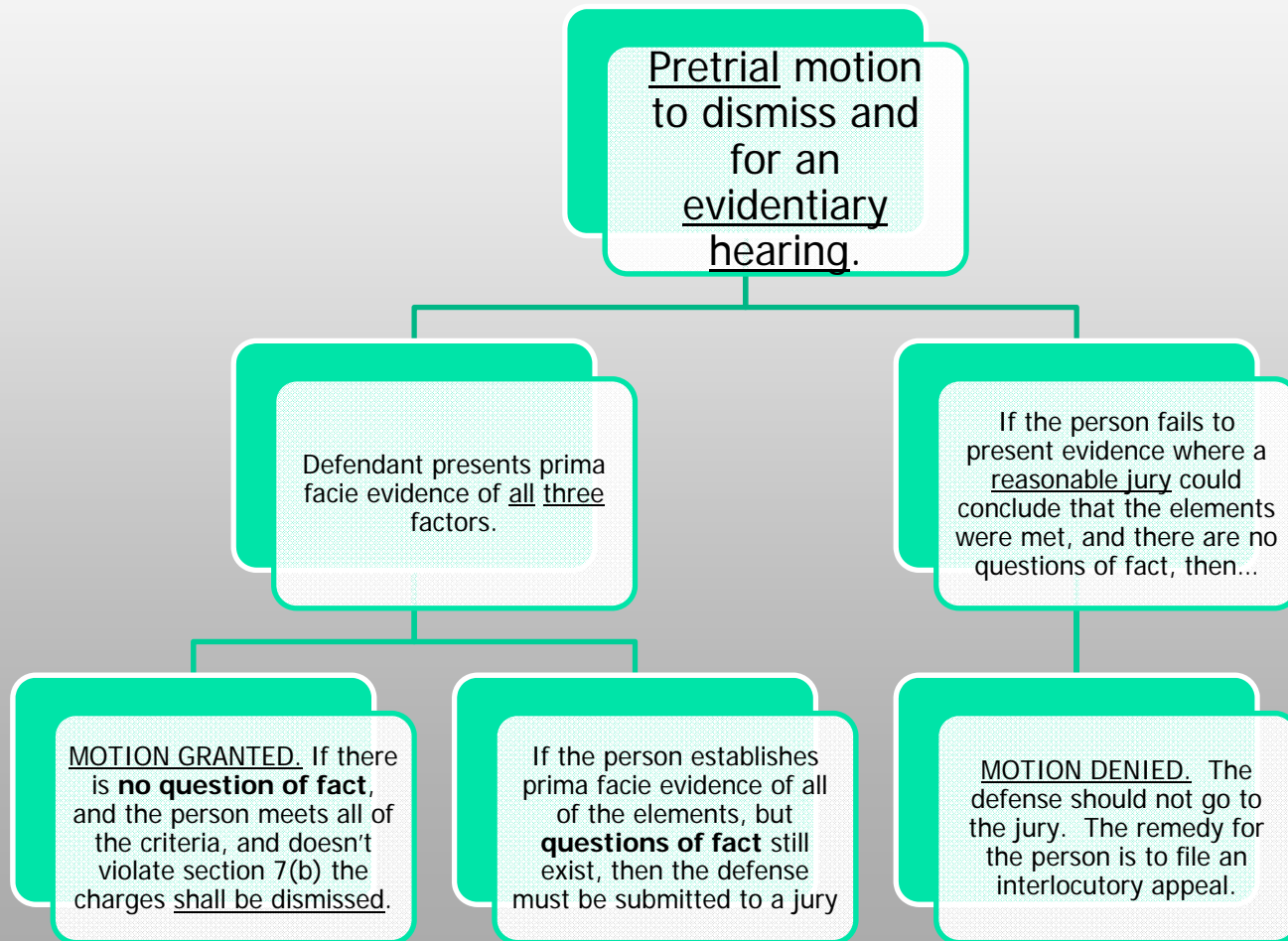


The Section 8 defense depends on a person's compliance with Section 7(b).
It DOES NOT require compliance with Section 4.

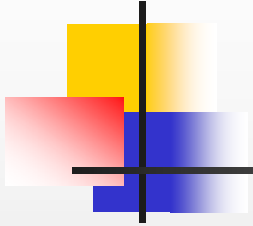
People v King & People v Kolanek

Michigan Medical Marijuana Act

Section 8 Defense Visualized



Michigan Medical Marihuana Act



Issues

Michigan Medical Marijuana Act



Legal Issue #1

- Is a “visiting qualifying patient” with a card from another state limited to possessing the amount listed under the Act, or can they possess what is allowed under their own state law?



Michigan Medical Marijuana Act



MCL 333.26424(j) of the Act

- It provides that another state's marijuana card "shall have the same force and effect as a registry identification card issued by the department."
- It should be noted that Michigan recognizes CPL permits from other states, however, it requires out of state CPL permit holders to comply with the restrictions stated in Michigan law.



Legal Issue #2

- Can an employer discipline/terminate an employee for using medical marijuana?



Michigan Medical Marijuana Act

Casias vs. Wal-Mart, U.S. District Court, decided February 11, 2011

- Civil case in Calhoun County which Wal-Mart fired an employee who tested positive for marihuana which he used while off-duty.
- The Court ruled that the “state’s medical marihuana law protects users from arrest, but not employers’ policies that ban the use of the drug.”



Cassias vs. Wal-Mart, U.S. Court of Appeals, 6th Circuit, decided September 19, 2012

- “The Plaintiff, Casias, cannot sue the company for violation of the Michigan Medical Marihuana Act because the law does not regulate private employment.”



Michigan Medical Marihuana Act

Braska, et. al. v. LARA, No. 313932 (Mich. App., October 23, 2014)

- The Michigan Court of Appeals ruled “That workers fired solely for failing a drug test because of their legal use of medical marihuana qualify for unemployment benefits, because the state’s medical marihuana law preempts its unemployment law.”

Michigan Medical Marihuana Act





Public Act 481, Effective, 12/18/12

- It specifies that an automobile insurance company would not be required to provide coverage under personal (injury) protection insurance (PIP) benefits for the medical use of marihuana or for expenses related to that use.
- It specifies that an employer, under the worker's compensation law, would not have to reimburse, or cause to be reimbursed, for charges for medical marihuana treatment.



Legal Issue #3

- Can an individual cultivate, distribute, or possess medical marihuana if he/she lives in a school zone?





Drug Free School Zone

- Neither a patient nor their caregiver can cultivate, distribute, or possess marihuana within the federal 1000-foot Drug Free School Zone.
- MCL 333.7410(4)-An individual 18 years of age or over who violates section 7403(2)(a)(v)(d) by possessing a marihuana on or within 1,000 feet of school property or a library shall be punished by a term of imprisonment or a fine, or both, of not more than twice that authorized by section 7403(2)(a)(v)(d).

Legal Issue #4

- Does a qualifying patient or primary caregiver have to maintain the plants at their primary residence or can it be a secondary location?





No Requirements

- There is no requirement that a qualifying patient or primary caregiver maintain the plants at their residence. Where the individual maintains the plants may eventually be limited by zoning laws, the Michigan Medical Marihuana Act, and federal law.



Legal Issue #5

- What about an individual who is on probation or parole?





Parole and Probation

MCL 771.3 reads:

- “During the term of his or her probation, the probationer shall not violate any criminal law of this state, the United States, or another state or any ordinance of any municipality in this state or another state.”
- Midland and Macomb County Circuit Courts has ruled that probationers/defendants are not allowed the use of medical marihuana while on probation.
- For those individuals who are on supervised release, parole, or probation, a sentencing court can order that this individual not be allowed to use or possess medical marihuana.

Legal Issue #6

- What is the process to revoke a patient or caregiver's registry identification card if convicted for selling marijuana under 4(k) of the Act?





MCL 333.26424(k) of the Act

- It is unclear as to how long the revocation will last.
- It only revokes a patient's card for selling marihuana, and not for selling other drugs.
- LARA will not revoke a patient or caregiver's card when that individual is placed on probation or parole when there is condition of probation that prohibits the possession/use of marihuana.



Legal Issue #7

- Does the Act's prohibition against smoking medical marihuana in a public place apply to public places such as food service establishments, motels, hotels, or apartments?

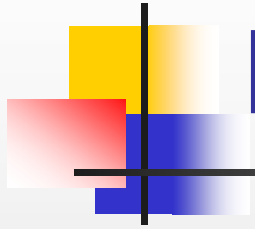


Michigan Medical Marihuana Act



Michigan Attorney General- 9/15/2011

- “Prohibits qualifying registered patients from smoking marihuana in the public areas of food service establishments, hotels, motels, apartment buildings, and any other place open to the public.”
- “An owner of a hotel, motel, apartment building, or other similar facility can prohibit the smoking of marihuana and the growing of marihuana plants anywhere within the facility, and imposing such a prohibition does not violate the Michigan Medical Marihuana Act.”



Legal Issue #8

- Whether a law enforcement officer who arrests a patient or primary caregiver registered under the MMMA must return marijuana found in possession of the patient or primary caregiver upon his release or her release from custody?

Michigan Attorney General-11/10/11

- “Section 4(h) of the MMMA is preempted by the CSA to the extent it requires law enforcement officers to return marihuana to registered patients or caregivers. As a result, law enforcement officers are not required to return marihuana to a patient or a caregiver.”
- “By returning marihuana to a registered patient or caregiver, a law enforcement officer is exposing himself or herself to potential criminal and civil penalties under the CSA for the distribution of marihuana or for aiding or abetting the possession or distribution of marihuana.”





The Act does not . . .

Treat marihuana as a medicine or even as a food.

- **No guidelines for processing.**
- **No purity requirements or standardization of ingredients.**
- **No potency requirements.**
- **No hygienic requirements.**
- **No requirements for herbicide/pesticide use.**
- **No research on therapeutic properties.**
- **No information on drug-drug or drug-disease interactions.**
- **Limited information on delivery methods.**
- **Limited information on cumulative effects.**



Future Concerns are now Concerns

- Profiteering
- Regulating/prohibiting medical Marihuana dispensaries through ordinances
- Exposure to federal prosecution
- Medical marihuana in jails
- Defendant on probation/parole
- Children's day care centers
- Adult foster care homes and nursing homes
- Federal subsidized housing
- Colleges and universities
- School zones
- Work-place
- Concealed Pistol License (CPL)



Where do we go from here?

- 1) Keep small, intimate 5 patient scheme?
- 2) Establish a private dispensary system?
 - Colorado example.
- 3) Canadian model – State of Michigan dispenses through local governmental entity such as the county health department?
- 4) Seek waiver from Federal Government, change marihuana to Schedule 2 drug, have doctors prescribe it, and dispense it through pharmacies?

Michigan Medical Marihuana Act





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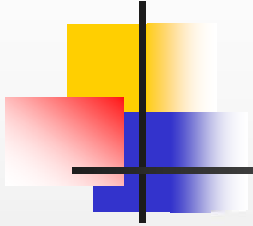
Slide Courtesy of Ben Cort Presentation

Michigan Automated Prescription System (MAPS)

- The Michigan Automated Prescription System (MAPS) is the prescription monitoring program for the State of Michigan. Prescription monitoring programs are used to identify and prevent drug diversion at the prescriber, pharmacy and patient levels by collecting Schedule 2-5 controlled substances prescriptions dispensed by pharmacies and practitioners.
- This enables the practitioner to determine if patients are receiving controlled substances from other providers and to assist in the prevention of prescription drug abuse.
- Only those persons authorized by Section 333.7333a of the Michigan Public Health Code are allowed access to the information contained in the MAPS database, which includes health professionals and law enforcement agencies.
- Online registration to MAPS is required to submit prescription data electronically and to request patient controlled substance history reports.
- [Register to MAPS Online](#)
- [Practitioner Registration to MAPS Online - Instructions](#)
- [Practitioner Request a MAPS Report - Instructions](#)



Michigan Medical Marihuana Act



QUESTIONS?

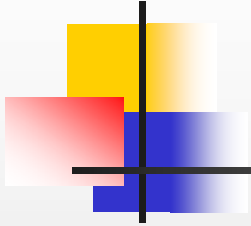
Michigan Medical Marijuana Act

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Michigan Medical Marihuana Act