

“IF CANNABIS WERE UNKNOWN, AND BIO-PROSPECTORS WERE SUDDENLY TO FIND IT IN SOME REMOTE MOUNTAIN CREVICE, ITS DISCOVERY WOULD NO DOUBT BE HAILED AS A MEDICAL BREAKTHROUGH.”

–THE ECONOMIST, MAY 5, 2006 ARTICLE, “MARIJUANA IS MEDICINE, WHETHER POLITICIANS LIKE IT OR NOT”

## AMERICANS FOR SAFE ACCESS

Americans for Safe Access (ASA) is the largest national member-based organization of patients, medical professionals, scientists and concerned citizens promoting safe and legal access to cannabis for therapeutic use and research. ASA works to overcome political and legal barriers by creating policies that improve access to medical cannabis for patients and researchers through legislation, education, litigation, grassroots actions, advocacy and services for patients and the caregivers. ASA has over 30,000 active members with chapters and affiliates in more than 40 states.

Medical cannabis patient and Executive Director Steph Sherer founded ASA in 2002 in response to federal raids on patients in California. Ever since then, ASA has been instrumental in shaping the political and legal landscape of medical cannabis. Our successful lobbying, media, and legal campaigns have led to positive court precedents, new sentencing standards, more compassionate legislative and administrative policies and procedures, as well as new legislation.

ASA protects the rights of medical cannabis patients. We are working to change federal policy to meet the immediate needs of patients as well as create long-term strategies for safe access and programs that encourage research.



## AMERICANS FOR SAFE ACCESS

AN ORGANIZATION OF MEDICAL PROFESSIONALS, SCIENTISTS AND PATIENTS HELPING PATIENTS

# MEDICAL MARIJUANA POLICY RECOMMENDATIONS FOR PRESIDENT BARACK H. OBAMA AND HIS ADMINISTRATION (2009-2013)



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## OVERVIEW

In the past three decades there has been an explosion of international research to investigate the therapeutic value of cannabis (marijuana). In the United States, research is stalled, and in some cases blocked, by a complicated federal approval process and restricted access to research-grade cannabis. Meanwhile, research teams in Great Britain, Spain, Italy, Israel, and elsewhere have confirmed – through case studies, basic research, pre-clinical, and clinical investigations – the medical value of cannabis.

Despite the fact that federal law clearly requires adequate competition in the manufacture of Schedule I and II substances, since 1968 the National Institute on Drug Abuse (NIDA) has maintained a monopoly on the supply of cannabis used for legitimate research purposes. The Drug Enforcement Administration helps to protect NIDA's monopoly by refusing to grant competitive licenses for the production of research-grade cannabis. In February 2007, U.S. Department of Justice-appointed Administrative Law Judge Mary Ellen Bittner issued an Opinion and Recommended Ruling which concluded that granting competitive licenses would be in the public interest. However, the Bush Administration took no action, and the Administrative Recommendation is still pending.

A scientific consensus supports the therapeutic use of cannabis to control symptoms of serious and chronic illnesses. In the past decade, clinical research has clearly demonstrated that the use of cannabis, and its constituents, can safely and effectively treat symptoms of serious and chronic illnesses like nausea and vomiting, loss of appetite, pain and spasticity. Indeed, a growing body of literature suggests that cannabis may hold the key to unlocking an array of treatments for HIV/AIDS, Multiple Sclerosis, and even cancer.

Despite overwhelming evidence which supports the therapeutic use of cannabis, federal law strictly prohibits its use, even for medical purposes. In 2002, the United States Supreme Court, in *Conant v. McCaffrey*, upheld a decision by the Ninth U.S. Circuit Court of Appeals that physicians have a fundamental right to recommend the use of cannabis to their patients. Unfortunately, outdated federal policies make safe and legal access to cannabis next to impossible. Most patients have to break the law and place themselves (or their caregivers) in unnecessary and potentially harmful entanglements with the illicit market in order to gain access to cannabis legally recommended by their physician.

In contrast, thirteen states have passed laws which permit individuals living with a serious or chronic illness to use and obtain cannabis from authorized caregivers as recommended by a licensed physician without legal sanction. However, these state laws differ from the federal law and leave patients and their providers vulnerable to federal raids, arrest, and prosecution.

Since the U.S. Supreme Court's decision in *Gonzales v. Raich*, which did not invalidate state medical cannabis laws, state and local governments have been working overtime to ensure the governance and oversight of the cultivation and distribution of medical cannabis in accordance with state law. Unfortunately, the proper implementation of state medical cannabis laws is stymied by federal interference. The U.S. Department of Justice (DOJ) in conjunction with the Drug Enforcement Administration (DEA) has conducted scores of enforcement raids and employed intimidation tactics designed to undermine the effective implementation of state and local law.

The time for change is now. Executive leadership requires a focus on harmonizing the conflict between federal and state law and support for a comprehensive plan to ensure safe access for individuals who use cannabis to control symptoms of HIV/AIDS, cancer, Multiple Sclerosis, and other serious or chronic diseases. The science and policy regarding the medical use of cannabis should not be obscured or hindered by the debate surrounding the legalization of marijuana for general use. Scientific consensus coupled with state leadership has provided a solid foundation for federal policymakers to create a comprehensive plan to support long-term solutions for safe and legal access to cannabis for therapeutic use and research.

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This document is predominantly a call for compassionate leadership. It is a call for specific changes to federal policy to meet the immediate needs of individuals who use cannabis for therapeutic purposes, their health care providers and medical researchers.

## RECOMMENDATIONS

### END FEDERAL RAIDS, INTIMIDATION AND INTERFERENCE WITH STATE LAW

- Implement an immediate suspension of the federal funds used by the U.S. Department of Justice and related agencies to investigate, intimidate, arrest and prosecute individuals authorized to use or provide medical cannabis in accordance with state or local law.
- Seek immediate removal of the ban on the use of District and federal funds to facilitate implementation of Washington, D.C.'s medical cannabis initiative.
- Instruct the Department of Veterans Affairs that no veteran shall be denied access to care solely on the basis of using medical cannabis in accordance with state or local law.
- Support the creation of an intergovernmental Advisory Council to provide advice, information, and recommendations about programs and policies to support safe and legal access to cannabis for therapeutic use and research. Membership should include state and local policymakers, medical cannabis advocacy organizations and individuals with particular expertise in, or knowledge of matters concerning the medical use of cannabis.

### ENCOURAGE ADVANCED CLINICAL RESEARCH TRIALS THAT MEET ACCEPTED SCIENTIFIC STANDARDS

- Instruct the U.S. Department of Justice, Drug Enforcement Administration to accept Administrative Law Judge Bittner's February 2007 Opinion and Recommended Ruling in the matter of Lyle E. Craker, Ph.D., Docket No. 05-16, to grant a competitive bulk-manufactures license to establish a privately-funded facility to cultivate cannabis exclusively for clinical research.
- Direct the U.S. Department of Health and Human Services to form a commission to oversee the full and immediate implementation of the recommendations provided by the Institute of Medicine's 1999 report, *Marijuana and Medicine*, and to make recommendations about programs and policies that encourage medical cannabis research. Coordination should occur among (and within): the National Institutes of Health (NIH) including the National Center for Complementary and Alternative Medicine (NCCAM), the Office of AIDS

Research (OAR), National Cancer Institute (NCI), and the National Institute of Drug Abuse (NIDA); the Food and Drug Administration (FDA); the National Institute on Mental Health; the Department of Veterans Affairs; and other related state and federal agencies.

### ENSURE THE QUALITY AND OBJECTIVITY OF INFORMATION DISSEMINATED BY FEDERAL AGENCIES

- Recommend that the U.S. Department of Health and Human Services correct statements disseminated on federal websites and in the Federal Register that falsely declare that cannabis "has no currently accepted medical use in treatment in the United States."

### AUTHORIZE AFFIRMATIVE AND LEGITIMATE DEFENSES IN FEDERAL TRIALS

- Instruct the U.S. Department of Justice, U.S. Attorneys Office to permit individuals facing prosecution for any marijuana-related violation of the Controlled Substances Act to introduce evidence demonstrating that the activities for which the individual stands accused were performed in accordance with a state law that authorized the use, possession, or distribution of cannabis for therapeutic use.
- Recommend that the U.S. Department of Justice, Office of the Pardon Attorney prioritize the pardon requests of individuals who have been convicted of any marijuana-related violation of the Controlled Substances Act but can demonstrate the activities for which the individuals were convicted were performed in accordance with a state law that authorized the use, possession, or distribution of cannabis for therapeutic use.

### REMOVE CANNABIS FROM THE LIST OF SCHEDULE I CONTROLLED SUBSTANCES

- Direct the U.S. Department of Justice to remove cannabis from the list of Schedule I controlled substances in light of a growing body of research which supports the therapeutic use of cannabis and in accordance with DEA's own 1988 Administrative Law ruling in which Judge Young opined that "the provisions of the CSA permit and require the transfer of cannabis from Schedule I to Schedule II."

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