OFFICE OF THE CITY ATTORNEY
Long Beach, California

~~ORD-14~~
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~~UB-25~~
UB-7

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Theodore B. Zinger

December 13, 2011

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Recommendation to declare ordinance amending the Long Beach Municipal Code by adding Chapter 5.89 prohibiting the establishment and operation of medical marijuana dispensaries within the City of Long Beach and by repealing Chapter 5.87 relating to medical marijuana collectives, read the first time and laid over to the next regular meeting of the City Council for final reading; declaring the urgency thereof and declaring that this ordinance shall take effect immediately. (Citywide)

DISCUSSION:

Pursuant to the direction of the City Council at the closed session held on October 11, 2011, attached for your consideration is an ordinance that would repeal the City's existing medical marijuana regulations (Chapter 5.87) and would at the same time enact a ban on medical marijuana collectives and dispensaries citywide (Chapter 5.89).

The attached ordinance is brought as an urgency measure that would go into effect immediately if enacted. The recent Court of Appeal decision in the case of *Pack v. City of Long Beach* has essentially eliminated the City's ability to effectively regulate dispensaries and collectives. Immediate action is required in order to curtail the further proliferation of the uses that the City no longer has the ability to regulate or control.

SUGGESTED ACTION:

Approve recommendation.

Very truly yours,

ROBERT E. SHANNON, City Attorney

By
MICHAEL J. MAIS
Assistant City Attorney

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ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LONG BEACH AMENDING THE LONG BEACH MUNICIPAL CODE BY ADDING CHAPTER 5.89 PROHIBITING THE ESTABLISHMENT AND OPERATION OF MEDICAL MARIJUANA DISPENSARIES WITHIN THE CITY OF LONG BEACH; AND BY REPEALING CHAPTER 5.87 RELATING TO MEDICAL MARIJUANA COLLECTIVES; DECLARING THE URGENCY THEREOF; AND DECLARING THAT THIS ORDINANCE SHALL TAKE EFFECT IMMEDIATELY

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WHEREAS, the people of the State of California have enacted Proposition 215, the Compassionate Use Act of 1996 ("CUA") (codified in Health and Safety Code Section 11362.5, *et seq.*), which allows for the possession and cultivation of marijuana for medical use by certain qualified persons; and

WHEREAS, the CUA creates a limited exception from criminal liability for seriously ill persons who are in need of medical marijuana for specified medical purposes and who obtain and use medical marijuana under limited circumstances; and

WHEREAS, in 2004 the State of California enacted Senate Bill 420, the Medical Marijuana Program Act ("MMPA") (codified in California Health and Safety Code Section 11362.7 *et seq.*), which purports to clarify the scope of the CUA, and also which recognizes the right of cities and other governing bodies to adopt and enforce rules and regulations consistent with the MMPA; and

WHEREAS, notwithstanding the passage of the CUA and MMPA, the cultivation, possession, and distribution of marijuana is strictly prohibited by federal law and specifically by the Controlled Substances Act ("CSA") (codified in 21 U.S.C. Section

841); and Section 841 of the CSA makes it unlawful for a person to manufacture, distribute, dispense, or possess with intent to manufacture, distribute, or dispense marijuana; and

WHEREAS, in accordance with the Long Beach Zoning Code, medical marijuana collectives, dispensaries and cultivation sites are prohibited in all zoning districts Citywide; and

WHEREAS, on March 23, 2010, the City Council of the City of Long Beach adopted Ordinance No. ORD -10-0007, (subsequently amended pursuant to Ordinance No. ORD-11-0002), establishing extensive regulations and a permitting process related to the distribution and cultivation of medical marijuana in the City and adding Chapter 5.87 ("Medical Marijuana Collectives") to the Long Beach Municipal Code; and

WHEREAS, on October 4, 2011, prior to the City issuing any permit to distribute or cultivate medical marijuana, the Second District Court of Appeal for the State of California issued a published opinion in the case of *Pack v. City of Long Beach*, ruling that the permitting and regulating of medical marijuana dispensaries and cultivation sites pursuant to Chapter 5.87 is preempted by the CSA; and

WHEREAS, the ruling in *Pack* has profoundly impacted the City's ability to enforce regulatory measures by precluding the City from issuing any permit or imposing any regulation that could be construed as encouraging or authorizing the possession or use of marijuana contrary to federal law. Specifically, the *Pack* decision prohibits the City from issuing operating or construction permits, charging fees to recoup administrative costs, conducting lotteries to determine the location of facilities, imposing product or operational safeguards such as lighting, security, auditing, video recording, inspection or testing, or in any way mandating the geographic distribution of medical marijuana facilities in the City.

WHEREAS, before and after the enactment of Chapter 5.87, and despite the City's best efforts to regulate the distribution and cultivation of medical marijuana in a responsible manner, the City has experienced negative secondary effects to public

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health, safety, and welfare, including violence and increased crimes such as falsely obtained identification cards, robberies, burglaries, arson, the sale of illegal drugs to both minors and adults, and murder, all of which can be directly linked to distribution, or cultivation sites established and operating within the boundaries of the City; and

WHEREAS, the Long Beach Police Department has incurred substantial investigative, monitoring, and response costs generated by said criminal activity, all of which has placed extensive additional burdens on already scarce law enforcement personnel and resources; and

WHEREAS, in addition to the burdens placed on law enforcement due to the existence of dispensaries, the City has also experienced an increase in administrative costs and a drain on resources in various departments and bureaus, all of which are directly related to the City's attempts to implement Chapter 5.87 and regulate the distribution of medical marijuana; and

WHEREAS, the City has also experienced negative secondary effects on the community including an increase in pedestrian and vehicular traffic and noise, increased loitering and littering around dispensary and cultivation sites, and increased complaints from residents and businesses regarding the operation of dispensaries in the City, as well as an increase in vacancies in the commercial areas adjacent to cultivation or dispensary sites located in the City; and

WHEREAS, pursuant to the City's police powers authorized in Article XI, Section 7 of the California Constitution, the Long Beach Municipal Code, and other provisions of California law, including, but not limited to California Government Code Section 38771, the City has the power through its City Council to declare actions and activities that constitute a public nuisance; and

WHEREAS, the City Council wishes to repeal Chapter 5.87 of the Municipal Code ("Medical Marijuana Collectives") and at the same time adopt regulations prohibiting the existence of medical marijuana dispensaries in the City of Long Beach;

NOW, THEREFORE, the City Council of the City of Long Beach ordains as

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follows:

Section 1. Findings. The City Council finds and determines that the facts set forth in the recitals of this Ordinance are true and correct and hereby incorporates them herein by this reference.

Section 2. Chapter 5.89 is hereby added to the Long Beach Municipal Code to read as follows:

Chapter 5.89

MEDICAL MARIJUANA DISPENSARIES

5.89.010 Purpose and intent.

The purpose of this Chapter is to promote the public health, safety and welfare by:

A. Prohibiting medical marijuana dispensaries and cultivation sites from locating in the City of Long Beach.

B. Protecting citizens from the secondary impacts and effects associated with medical marijuana and related activities, including, but not limited to, loitering, increased pedestrian and vehicular traffic, increased noise, fraud in obtaining or using medical marijuana identification cards, sales of medical marijuana to minors, drug sales, robbery, burglaries, assaults or other violent crimes.

C. Decreasing demands on police or other valuable and scarce City administrative, financial, or personnel resources in order to better protect the public fisc.

D. This Chapter is not intended to conflict with federal or state law. It is the intention of the City Council that this Chapter be interpreted to be compatible with federal and state enactments and in furtherance of the

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public purposes which those enactments encompass.

5.89.020 Definitions.

Unless the particular provision or the context otherwise requires, the definitions and provisions contained in this section shall govern the construction, meaning and application of words and phrases used in this Chapter:

A. "Cultivation Site" means any facility, establishment, location, or business, indoors or outdoors, that independently or collectively, grows or stores marijuana, in excess of the limitations set forth in Health and Safety Code Section 11362.7 et seq.,

B. "Identification Card" shall have the same definition as given such term in California Health and Safety Code Section 11362.7, as may be amended, and which defines "Identification Card" as a document issued by the State Department of Health Services which identifies a person authorized to engage in the medical use of marijuana, and identifies the person's designated primary caregiver, if any.

C. "Marijuana" shall have the same definition as given such term in California Health and Safety Code Section 11018, as may be amended, and which defines "Marijuana" as all parts of the plant Cannabis sativa L., whether 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, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. "Marijuana" includes any of the above

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parts of the plant, its seeds, or resin, incorporated or infused in foodstuff.

D. "Medical Marijuana" means Marijuana authorized in strict compliance and used or cultivated for medical purposes in accordance with California Health and Safety Code Sections 11362.5, or 11362.7, et seq., or any such section as may be amended.

E. "Medical Marijuana Dispensary or Dispensary" means any association, business, facility, use, establishment, location, delivery service, cooperative, collective, or provider, whether fixed or mobile, that possesses, cultivates, distributes, or makes available medical marijuana to any person, including: a Primary Caregiver, a Qualified Patient, or a patient with an Identification Card.

F. "Primary Caregiver" shall have the same definition as given such term in California Health and Safety Code Sections 11362.5 and 11362.7 as may be amended, and which define "Primary Caregiver" as an individual, designated by a Qualified Patient or Identification Card holder, who has consistently assumed responsibility for the housing, health, or safety of that Qualified Patient.

G. "Qualified Patient" means a person who is entitled to the protections of Health and Safety Code Section 11362.5 for patients who obtain and use marijuana for medical purposes upon the recommendation of an attending physician, whether or not that person applied for and received a valid Identification Card issued pursuant to state law.

5.89.030 Medical marijuana dispensary prohibited.

A. No person or entity shall operate or permit to be operated a Medical Marijuana Dispensary or Cultivation Site in or upon any premise or any zone in the City. The City shall not issue, approve, or grant any permit, license, or other entitlement for the establishment or operation of a Medical

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Marijuana Dispensary or Cultivation Site.

B. It shall be unlawful for any person or entity to own, manage, conduct, establish, operate or facilitate the operation of any Medical Marijuana Dispensary or Cultivation Site, or to participate as an employee, contractor, agent, or volunteer, or in any other manner or capacity, in any Medical Marijuana Dispensary or Cultivation Site in the City. The term "facilitate" shall include, but not be limited to, the leasing, renting or otherwise providing any real property or other facility that will in any manner be used or operated as a Medical Marijuana Dispensary or Cultivation Site in the City.

5.89.040 Establishment, maintenance, or operation of medical marijuana dispensaries declared a public nuisance.

The establishment, maintenance, operation, facilitation, of, or participation in a Medical Marijuana Dispensary or Cultivation Site within the City limits of the City of Long Beach is declared to be a public nuisance, and may be abated by the City or subject to any available legal remedies, including but not limited to civil injunctions and administrative penalties. The City Attorney may institute an action in any court of competent jurisdiction to restrain, enjoin or abate any condition(s) found to be in violation of the provisions of this Chapter, as provided by law. In the event the City files any action to abate any dispensary or cultivation site as a public nuisance, the City shall be entitled to all costs of abatement, costs of investigation, attorney's fees, and any other relief available in law or in equity.

5.89.050 Existing medical marijuana dispensary operations.

No Medical Marijuana Dispensary, Cultivation Site, Collective, operator, establishment, or provider that existed prior to the enactment of

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this Chapter shall be deemed to be a legally established use or a legal non-conforming use under the provisions of this Chapter or the Code.

5.89.060 Penalties for violation.

A. The violation of any provision of this Chapter is unlawful and constitutes a misdemeanor, punishable by a fine of not more than one thousand dollars ($1,000) or a jail term of six (6) months, or both. Each and every day a violation occurs shall be deemed a separate violation.

B. In addition to the remedies set forth herein, the City in its sole discretion, may also issue an Administrative Citation in accordance with Chapter 9.65 of this Code to any person or entity that violates the provisions of this Chapter.

5.89.070 Severability.

If any provision of this Chapter, or the application thereof to any person or circumstance, is held invalid, that invalidity shall not affect any other provision or application of this Chapter that can be given effect without the invalid provision or application; and to this end, the provisions or applications of this Chapter are severable.

Section 3. Chapter 5.87 of the Long Beach Municipal Code is hereby repealed.

Section 4. The City Council finds that this Ordinance is not subject to environmental review under the California Environmental Quality Act pursuant to Title 14 of the California Code of Regulations (CEQA Guidelines) Section 15060 (c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and Section 15060(c)(3) (the activity is not a project as defined in Section

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15378) because it has no potential for resulting in physical change to the environment, directly or indirectly.

Section 5. Declaration of Urgency. This Ordinance is an emergency measure, and is urgently required for the reason that the City's existing medical marijuana regulatory process as set forth in Chapter 5.87 of the Code has recently been declared by the Second District Court of Appeal for the State of California to be in conflict with, and preempted by Federal law. Failing to adopt this Ordinance as an urgency measure will place the City of Long Beach in a situation where it has no regulatory control over medical marijuana dispensaries, which situation would likely lead to an exacerbation of the negative secondary effects that such facilities have caused, and continue to cause in the City, which effects are more fully described elsewhere herein.

Section 6. This Ordinance is an emergency ordinance duly adopted by the City Council by a vote of five of its members and shall take effect immediately. The City Clerk shall certify to a separate roll call and vote on the question of the emergency of this ordinance and to its passage by the vote of five members of the City Council of the City of Long Beach, and cause the same to be posted in three conspicuous places in the City of Long Beach.

I hereby certify that on a separate roll call and vote which was taken by the City Council of the City of Long Beach upon the questions of the emergency of this ordinance at its meeting of _____, 2011, the ordinance was declared to be an emergency by the following vote:

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Ayes: Councilmembers: _____

_____

_____

_____

Noes: Councilmembers: _____

_____

Absent: Councilmembers: _____

_____

I further certify that thereafter, at the same meeting, upon a roll call and vote on adoption of the ordinance, it was adopted by the City Council of the City of Long Beach by the following vote:

Ayes: Councilmembers: _____

_____

_____

_____

Noes: Councilmembers: _____

_____

Absent: Councilmembers: _____

_____

I further certify that the foregoing ordinance was thereafter adopted on final reading of the City Council of the City of Long Beach at its meeting of _____, 2011, by the following vote:

Ayes: Councilmembers: _____

_____

_____

_____

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Noes: Councilmembers: _____

_____

Absent: Councilmembers: _____

_____

_____
City Clerk

Approved: _____ _____
(Date) Mayor

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HANDOUTS FROM
THE CITY COUNCIL MEETING OF
DECEMBER 13, 2011

ORD-14

From:	Carl Kemp <carl@kemp-group.com>
To:	CITY COUNCIL/STAFF <carl@kemp-group.com>, <bob.foster@longbeach.gov>, <becki.ames@longbeach.gov>, Robert Shannon <Robert.Shannon@longbeach.gov>, <karen.hester@longbeach.gov>
Cc:	Carl Kemp <carl@kemp-group.com>
Date:	12/06/2011 10:19 AM
Subject:	LONG BEACH MEDICAL MARIJUANA ORDINANCE REQUESTED AMENDMENTS

Attached the Council's request at the November 1st meeting, please find:

1. Cover letter from the Long Beach Collective Association (LBCA)
2. Drafted amendments to the current ordinance
3. Code of Conduct for the members of the LBCA, which represents the majority of the collectives approved under the current ordinance.

We appreciate your interest and look forward to working with you to amend the current ordinance instead of banning collectives in this City. We welcome any meeting you would like to have with us and hope this will serve as a platform for asking the City Attorney's office to thoughtfully consider amending the ordinance they worked so hard to draft and redraft, at your direction.

Sincerely,
Carl Kemp

LBHCA

LONG BEACH
COLLECTIVE ASSOCIATION

December 6, 2011

Hon. Mayor Bob Foster and City Council Members
333 W. Ocean Blvd.
Long Beach, CA 90802

Subject: "Third Option" Amendments to Long Beach Medical Marijuana Ordinance

Dear Mayor and Council Members:

Attached, per your request at the October 30, 2011 meeting of the City Council, please find a redlined version of the Long Beach Medical Marijuana Ordinance, with amendments that offer a "third option". This document, prepared by our team of attorneys, amends the current ordinance in a way in which we believe allows the City of Long Beach to be in compliance with the rulings in the "Pack decision", and allows those collectives that were authorized under the current ordinance to continue to exist.

Additionally, we believe this amended version maintains the City Council's original legislative intent to both provide for patients in need of medical marijuana, while concurrently protecting the community from an over-proliferation of collectives. Throughout the document, we have sought to leave in place those restrictions originally included by the City Council. And where there were "requirements", we have changed the language to read as restrictions, thereby honoring the Council's intent and comporting with Pack.

Also attached for your consideration, is our Code of Conduct, which all of our members, representing the majority of those approved under the ordinance, have agreed to strictly follow. The members of our association have sought legitimacy from the start of this ordinance's creation, and we intend to honor our commitment to the City Council and the Long Beach community at large by self-regulating whenever and wherever possible.

We sincerely appreciate your request to submit this third option. Like you, we are interested in being in compliance with the law. However, since your City Attorney has appealed the Pack decision to the State Supreme Court, the law has yet to be settled, and we therefore see no reason to execute a repeal and ban in a hasty fashion.

Rather, it is our hope that the City Council take a thoughtful look at what we have drafted, consider it a starting point, and ask the City Attorney's office to find ways to implement our suggestions (and their own), such that the legislative intent of the ordinance you took almost two years to complete is maintained.

5318 E. 2ND ST. #571 LONG BEACH, CA 90803

LBCA

LONG BEACH
COLLECTIVE ASSOCIATION

Thank you for your consideration. We look forward to working with you to maintain a compassionate, safe, and legally compliant Long Beach.

Sincerely,

Carl A. Kemp

ATTACHMENTS

5318 E. 2ND ST. #571 LONG BEACH, CA 90803

5.87.010 Purpose and Intent

A.

It is the purpose and intent of this chapter to regulate the collective cultivation of medical marijuana in order to ensure the health, safety and welfare of the residents of the City of Long Beach. The regulations in this chapter, in compliance with the State Compassionate Use Act and the State Medical Marijuana Program Act ("state law"), do not interfere with a patient's right to use medical marijuana as authorized under state law, nor do they criminalize the possession or cultivation of medical marijuana by specifically defined classifications of persons, as authorized under state law. Under state law, only qualified patients, persons with identification cards, and primary caregivers may legally cultivate medical marijuana collectively. Medical marijuana collectives shall comply with all provisions of the Long Beach City Municipal Code ("LBMC"), state law, and all other applicable local and state laws. Nothing in this chapter purports to permit activities that are otherwise illegal under federal, state or local law.

5.87.015 - Definitions.

Unless the particular provision or the context otherwise requires, the definitions and provisions contained in this section shall govern the construction, meaning, and application of words and phrases as used in this chapter:

A.

"Attending physician" shall have the same definition as given such term in California Health and Safety Code Section 11362.7, as may be amended, and which defines "attending physician" as an individual who possesses a license in good standing to practice medicine or osteopathy issued by the Medical Board of California or the Osteopathic Medical Board of California and who has taken responsibility for an aspect of the medical care, treatment, diagnosis, counseling, or referral of a patient and who has conducted a medical examination of that patient before recording in the patient's medical record the physician's assessment of whether the patient has a serious medical condition and whether the medical use of marijuana is appropriate.

B.

"Chief of police" as used in this chapter is defined to mean the Chief of the Long Beach Police Department or her/his designee.

C. *"Concentrated cannabis"* shall have the same definition as given such term in California Health and Safety Code Section 11006.5, as may be amended, and which defines "concentrated cannabis" as the separated resin, whether crude or purified, obtained from marijuana.

D. *"Director of financial management"* as used in this chapter is defined to mean the Director of Financial Management for the City of Long Beach or her/his designee.

E. *"Edible medical marijuana"* as used in this chapter is defined to mean any article used for food, drink, confectionery, condiment or chewing gum by human beings whether such article is simple, mixed or compound, which contains physician recommended quantities of medical marijuana, and is produced on-site at a collective permitted pursuant to this chapter within the City of Long Beach.

F. *"Identification card"* shall have the same definition as given such term in California Health and Safety Code Section 11362.7, as may be amended, and which defines "identification card" as a document issued by the state department of health services which identifies a person authorized to engage in the medical use of marijuana, and identifies the person's designated primary caregiver, if any.

G. *"Management member"* means a medical marijuana collective member with responsibility for the establishment, organization, registration, supervision, or oversight of the operation of a collective, including but not limited to, members who perform the functions of president, vice president, director, operating officer, financial officer, secretary, treasurer, or manager of the collective.

H. *"Marijuana"* shall have the same definition as given such term in California Health and Safety Code Section 11018, as may be amended, and which defines "marijuana" as all parts of the plant Cannabis sativa L., whether 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, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted

therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

I. *"Medical marijuana"* means marijuana used for medical purposes in accordance with California Health and Safety Code Sections 11362.5, et seq.

J. *"Medical marijuana collective"* ("collective") means an incorporated or unincorporated association, composed of four (4) or more qualified patients and their designated primary caregivers who associate at a particular location or property within the boundaries of the City of Long Beach to collectively or cooperatively cultivate marijuana for medical purposes or distribute said medical marijuana to collective members and management members, in accordance with California Health and Safety Code Sections 11362.5, et seq. For purposes of this chapter, the term medical marijuana "cooperative" shall have the same meaning as medical marijuana collective.

K. "Park" or "Public Park" shall mean publicly owned natural or open areas set aside for active and passive public use for recreational, cultural or community service activities. For purposes of this Chapter only, all beaches in the City, including but not limited to, all ocean facing beaches, Alamitos Bay, Marine Stadium, Colorado Lagoon, and Marina Park, are excluded from the definition of "Park" or "Public Park."

L. *"Primary caregiver"* shall have the same definition as given such term in California Health and Safety Code Sections 11362.5 and 11362.7 (as set forth in Appendix A of this chapter), as may be amended, and which define "primary caregiver" as an individual, designated by a qualified patient, who has consistently assumed responsibility for the housing, health, or safety of that qualified patient.

M. *"Property"* as used in this chapter means the location or locations within the boundaries of the City of Long Beach at which the medical marijuana collective members and management members associate to collectively or cooperatively cultivate or distribute medical marijuana exclusively for the collective members and management members.

N. *"Qualified patient"* means a person who is entitled to the protections of Health and Safety Code Section 11362.5 for

patients who obtain and use marijuana for medical purposes upon the recommendation of an attending physician, whether or not that person applied for and received a valid identification card issued pursuant to state law.

O.

"State law" means the state regulations set forth in the Compassionate Use Act and the Medical Marijuana Program Act, codified in California Health and Safety Code Sections 11362.5, et seq.

5.87.020 - Medical marijuana collective—Registration required.

A. No medical marijuana collective which was not chosen in the September 20, 2011 lottery process carried out by the director of financial management may register in the initial registration process. The director of financial management may promulgate reasonable restrictions upon the registration of medical marijuana collectives in later registration processes, however, no subsequent registering collective may register when such registration would cause the registering collective to be within a one thousand foot (1,000') radius of a previously registered collective

B. No medical marijuana collective, management member or member shall carry on, maintain or conduct any medical marijuana collective related operations in the city without first completing a medical marijuana collective registration form with the department of financial management.

5.87.030 - Medical marijuana collective—Registration process.

Any medical marijuana collective desiring to operate within the City of Long Beach shall, prior to initiating operations, complete and file a registration form supplied by the department of financial management, and shall submit with the completed registration form payment of an annual nonrefundable processing fee, as established by the city council by resolution. The medical marijuana collective registration process is established to provide an enforcement process for each medical marijuana collective operation within the city.

A.

Filing. The medical marijuana collective shall provide the following information:

1. The address of the property or properties where the proposed medical marijuana collective will operate.
2. A site plan describing the property with fully dimensioned interior and exterior floor plans including electrical, mechanical, plumbing, and disabled access compliance pursuant to Title 24 of the State of California Code of Regulations and the federally mandated Americans with Disabilities Act.
3. Exterior photographs of the entrance(s), exit(s), street frontage(s), parking, front, rear and side(s) of the proposed property.
4. Photographs depicting the entire interior of the proposed property.
5. If the property is being rented or leased or is being purchased under contract, a copy of such lease or contract.
6. If the property is being rented or leased, written proof that the property owner, and landlord if applicable, were given notice that the property will be used as a medical marijuana collective, and that the property owner, and landlord if applicable, agree(s) to said operations.
7. The name, address, telephone number, title and function(s) of each management member.
8. For each management member, a fully legible copy of one (1) valid government issued form of photo identification, such as a state driver's license or identification card. Acceptable forms of government issued identification include, but are not limited to: Drivers licenses or photo identity cards issued by state department of motor vehicles (or equivalent) that meet REAL ID benchmarks, a passport issued by the United States or by a foreign government, U.S. military ID cards (active duty or retired military and their dependents), or a permanent resident card.
9.

Written confirmation as to whether the medical marijuana collective previously operated in this or any other county, city or state and whether the collective applicant has ever had its medical marijuana operation revoked or suspended and the reason(s) therefore.

10. If the medical marijuana collective is a corporation, a certified copy of the collective's secretary of state articles of incorporation, certificate(s) of amendment, statement(s) of information and a copy of the collective's bylaws.

11. If the medical marijuana collective is an unincorporated association, a copy of the articles of association.

12. The name and address of the applicant's current agent for service of process.

13. A copy of the medical marijuana collective operating conditions, listed in Section 5.87.040, containing a statement dated and signed by each management member, under penalty of perjury, that they read, understand and shall ensure compliance with the aforementioned operating conditions.

14. A statement dated and signed by each management member, under penalty of perjury, that the management member has personal knowledge of the information contained in the registration form, that the information contained therein is true and correct, and that the registration form has been completed under the supervision of the management member(s).

15. Whether edible medical marijuana will be prepared at the proposed property.

16. The property address where any and all medical marijuana will be collectively cultivated by the collective members and management members within the City of Long Beach.

17. The property address where any and all collectively cultivated medical marijuana will be distributed to the collective members and management members.

B.

No medical marijuana collective shall be allowed to operate within the City of Long Beach without a true, complete and accurate registration form on file with the director of financial management.

C.

On receipt of the completed medical marijuana collective registration form, the director of financial management shall refer the registration form to all concerned city departments, including, but not limited to, police, fire, health, development services and code enforcement for investigation and inspection. Such departments shall file a report with the director of financial management setting forth each violation of the Municipal Code discovered in their respective investigation and inspection.

D. The director of financial management shall notify the medical marijuana collective of all violations in writing and the medical marijuana collective shall have a period of sixty (60) days within receipt of any notice of violation to correct all such violations. The failure of any medical marijuana collective to correct all violations in such sixty (60) day period shall be a violation of this ordinance.

5.87.040 - Medical marijuana collective operating conditions.

The director of financial management shall be responsible for assuring that any medical marijuana collective be and remain in compliance with all of the following conditions:

A.

The property is not located in an area zoned in the city for exclusive residential use. Medical marijuana collectives are not permitted to operate in exclusive residential zones as established pursuant to Title 21 of this Code.

B.

The medical marijuana collective is not located within a one thousand five hundred (1,500) foot radius of a public or private high school or within a one thousand-foot radius of a public or private kindergarten, elementary, middle or junior high school. The distances specified in this subdivision shall be determined by the horizontal distance measured in a straight line from the property line of the school to the closest property line of the lot on which the medical marijuana collective is located, without regard to intervening structures.

C.

The medical marijuana collective is not located within a one

thousand-foot radius of any other medical marijuana collective. The distance specified in this subdivision shall be determined by the horizontal distance measured in a straight line from the property line of any other medical marijuana collective, to the closest property line of the lot on which the permitted medical marijuana collective is located, without regard to intervening structures.

D. Exterior building and parking area lighting at the property are in compliance with all applicable provisions of this Code.

E. All exterior or interior signs visible from the exterior of the property shall not be lighted.

F. No windows or roof hatches at the property shall be left unsecured so as to allow unauthorized entry, and shall be in compliance with all applicable building code provisions.

G. The property provides sufficient sound absorbing insulation so that noise generated inside the premises is not audible anywhere on the adjacent property or public rights-of-way, or within any other building or other separate unit within the same building as the medical marijuana collective.

H. No odor generated inside the property shall be detected outside the property, anywhere on adjacent property or public rights-of-way, or within any other unit located within the same building as the medical marijuana collective.

I. No medical marijuana collective may manufacture edible medical marijuana for consumption by anyone other than qualified patient members and qualified patient management members of the collective, and all such manufacture shall be in compliance with all applicable state and local laws.

J. No medical marijuana collective shall fail to meet all applicable state and local laws to ensure that the operations of the collective are consistent with the protection of the health, safety and welfare of the community, qualified patients and their primary caregivers, and will not adversely affect surrounding uses.

K. No collective shall operate for profit. No cash and in-kind contributions, reimbursements or reasonable compensation provided by management members and members towards the collective's actual expenses of the growth, cultivation,

and provision of medical marijuana shall be allowed other than as provided in strict compliance with state law.

L. No cultivation of medical marijuana shall be allowed unless undertaken by the medical marijuana collective members and management members.

M. No cultivation of medical marijuana by the medical marijuana collective members and management members shall occur outside of the boundaries of the City of Long Beach and only at the property identified on the medical marijuana registration form.

N. No distribution of the medical marijuana collectively cultivated by the medical marijuana collective members and management members to collective members and management members shall occur outside of the boundaries of the City of Long Beach and only at the property identified on the medical marijuana permit application.

O. If the cultivation of medical marijuana by the medical marijuana collective located within the City of Long Beach is to take place at a location other than the location where the medical marijuana is distributed to medical marijuana collective members and management members, then the location of cultivation shall likewise fully comply with the provisions of Section 5.87.040 and all of its subsections.

P. In ordet to assure compliance with the requirements of M & O above every medical marijuana collective shall maintain, on-site at the property, cultivation records, signed under penalty of perjury by each management member, identifying the location within the City of Long Beach at which the medical marijuana was cultivated, and the total number of said plants cultivated at each location.

Q. No medical marijuana distributed by the collective shall contain harmful pesticides or other contaminants regulated by local, state or federal regulatory or statutory standards; and

R. There shall be no medical marijuana provided to collective members unless it is properly labeled in strict compliance with state and local laws.

5.87.070 - Inspection authority.

City representatives may enter and inspect the property of every medical marijuana collective between the hours of nine o'clock (9:00) a.m. and seven o'clock (7:00) p.m., or at any reasonable time to ensure compliance and enforcement of the provisions of this chapter, except that the inspection and copying of private medical records shall be made available to the police department only pursuant to a properly executed search warrant, subpoena, or court order. It is unlawful for any property owner, landlord, lessee, medical marijuana collective member or management member or any other person having any responsibility over the operation of the medical marijuana collective to refuse to allow, impede, obstruct or interfere with an inspection.

5.87.080 - Existing medical marijuana operations.

Any existing medical marijuana collective, dispensary, operator, establishment, or provider that does not comply with the requirements of this chapter must immediately cease operation until such time, if any, when it complies fully with the requirements of this chapter. No medical marijuana collective, dispensary, operator, establishment, or provider that existed prior to the enactment of this chapter shall be deemed to be a legally established use or a legal nonconforming use under the provisions of this chapter or the Code.

5.87.090 - Prohibited activity.

A.

It is unlawful for any person to cause, permit or engage in the cultivation, possession, distribution, exchange or giving away of marijuana for medical or nonmedical purposes except as provided in this chapter, and pursuant to any and all other applicable local and state law.

B.

It is unlawful for any person to cause, permit or engage in any activity related to medical marijuana except as provided in this chapter and in Health and Safety Code Sections 11362.5 et seq., and pursuant to any and all other applicable local and state law.

C.

It is unlawful for any person to knowingly make any false, misleading or inaccurate statement or representation in any form, record, filing or documentation required to be maintained, filed or provided to the city under this chapter.

D.

No medical marijuana collective, management member or member shall cause or permit the sale, distribution or exchange of medical

marijuana or of any edible medical marijuana product to any noncollective management member or member.

E. No medical marijuana collective, management member or member shall allow or permit the commercial sale of any product, good or service, including, but not limited to, drug paraphernalia identified in Health and Safety Code Section 11364, on or at the medical marijuana collective, in the parking area of the property. An exception shall be made for persons who are not collective members or management members and who possess a valid city issued business license which authorizes the "place to place" sale of soil and nutrients to the collective, management members or members for the collective cultivation of medical marijuana by management members and members of the collective.

F. No cultivation of medical marijuana at the property shall be visible with the naked eye from any public or other private property, nor shall cultivated medical marijuana or dried medical marijuana be visible from the building exterior. No cultivation shall occur at the property unless the area devoted to the cultivation is secured from public access by means of a locked gate and any other security measures necessary to prevent unauthorized entry.

G. No manufacture of concentrated cannabis in violation of California Health and Safety Code Section 11379.6, is allowed.

H. No medical marijuana collective shall be open to or provide medical marijuana to its members or management members between the hours of seven o'clock (7:00) p.m. and nine o'clock (9:00) a.m.

I. No person under the age of eighteen (18) shall be allowed at the property, unless that minor is a qualified patient and is accompanied by his or her licensed attending physician, parent(s) or documented legal guardian.

J. No medical marijuana collective shall possess medical marijuana that was not collectively cultivated by its management members or members either at the property or at its predecessor location fully permitted in accordance with this chapter.

K. No medical marijuana collective, management member or member shall cause or permit the sale, dispensing, or consumption of alcoholic beverages on the property or in the parking area of the property.

L. No dried medical marijuana shall be stored at the property in

structures that are not completely enclosed, in an unlocked vault or safe, in any other unsecured storage structure, or in a safe or vault that is not bolted to the floor of the property.

M.

Medical marijuana may not be inhaled, smoked, eaten, ingested, or otherwise consumed on the property, in the parking areas of the property, or in those areas restricted under the provisions of California Health and Safety Code Section 11362.79, which include:

1.

Any place where smoking is prohibited by law;

2.

Within one thousand (1,000) feet of the grounds of a school, recreation center, or youth center;

3.

While on a school bus;

4.

While in a motor vehicle that is being operated; or

5.

While operating a boat.

N.

Medical marijuana collective membership and management membership, established pursuant to this chapter, shall be limited to one (1) medical marijuana
collective registered in accordance with this chapter.

O.

No person who has been convicted within the previous ten (10) years of a felony or a crime of moral turpitude, or who is currently on parole or probation for the sale or distribution of a controlled substance, shall be engaged directly or indirectly in the management of the medical marijuana collective, nor further, shall manage or handle the receipts and expenses of the collective.

5.87.100 - Violation and enforcement.

A.

Any person violating any provision of this chapter or knowingly or intentionally misrepresenting any material fact in the registration form herein provided for, shall be deemed guilty of a misdemeanor punishable by a fine of not more than one thousand dollars ($1,000.00) or by imprisonment for not more than twelve (12) months, or by both such fine and imprisonment.

B.

As a nuisance per se, any violation of this chapter shall be subject to injunctive relief, revocation of the certificate of occupancy for the property, disgorgement and payment to the city of any and all

monies unlawfully obtained, costs of abatement, costs of investigation, attorney fees, and any other relief or remedy available at law or equity. The city may also pursue any and all remedies and actions available and applicable under local and state law for any violations committed by the medical marijuana collective, its management members, members or any person related or associated with the collective.

C.

Any violation of the terms and conditions of this chapter, or of applicable local or state regulations and laws not remedied as provided for in this chapter shall be deemed a misdemeanor punishable by a fine of not more than one thousand dollars ($1,000.00) or by imprisonment for not more than twelve (12) months, or by both such fine and imprisonment.

5.87.120 - Operative date.

A.

This chapter will become effective one hundred twenty (120) days following its passage and adoption. The department of financial management will accept completed medical marijuana collective registration forms one hundred twenty (120) days prior to the effective date of this chapter.

B.

Each medical marijuana collective shall have an additional one hundred twenty (120) days from the operative date of this chapter to comply with the medical marijuana cultivation requirements set forth in Subsection 5.87.040M., and Subsection 5.87.090O., of this chapter.

5.87.130 - Severability.

If any provision of this chapter, or the application thereof to any person or circumstance, is held invalid, that invalidity shall not affect any other provision or application of this chapter that can be given effect without the invalid provision or application; and to this end, the provisions or applications of this chapter are severable.

5.87.135-Designee

The City Manager or designee is hereby authorized to develop procedures necessary to implement this Ordinance in a fair and reasonable manner.

5.87.140 - Review of regulations.

On or before the first anniversary of the effective date of this chapter, the city council shall review the effectiveness of these regulations, and shall enact modifications, if necessary.

LBHCA

LONG BEACH
COLLECTIVE ASSOCIATION

Code of Conduct

Long Beach Collective Association members shall at all times:

1. Comply with all California Health and Safety Code sections that regulate Medical Marijuana activities.

2. Maintain and operate a Point of Sale (POS) system which shall accurately track inventory and member transactions.

3. Collect and promptly pay all California State Board of Equalization use taxes.

4. Promptly pay all Association Dues and assessments. Members who are delinquent will lose their voting privileges.

5. Cooperate with the Long Beach Police Department and Finance Department and voluntarily report any activity of any member - patient or member which is a clear violation of the California Health and Safety Code and the Long Beach Municipal Code.

6. Promptly report to the association any member-patient whose activities have caused that member-patient to lose membership privileges and to refuse membership privileges to any patient-member who has lost such membership privileges at another member collective.

7. Be a good neighbor and voluntarily give back to the Long Beach Community via a 2% of gross revenues contribution to Long Beach Charities.

8. Provide licensed security personnel to assure every member-patient has safe access to their medication.

9. Insure that No member Collective shall cause or permit the sale, distribution or exchange of Medical Marijuana or of any Edible Medical Marijuana product to any non Collective member.

10. No member Collective shall allow or permit the commercial sale of any product, good or service, including but not limited to drug paraphernalia identified in Health and Safety Code Section 11364, on or at the Medical Marijuana Collective, in the parking area of the Collective's Property. An exception shall be made for persons who are not Collective members or Management Members and who possess a valid City issued business license which authorizes the "place to place" sale of soil and nutrients to the Collective, Management Members or members for the collective cultivation of Medical Marijuana by Management Members and members of the Collective.

11. No cultivation of Medical Marijuana at the Collective's Property shall be visible with the naked eye from any public or other private property, nor shall cultivated Medical Marijuana or dried Medical Marijuana be visible from the building exterior. No cultivation shall occur at the Collective's Property unless the area devoted to the cultivation is secured from public access by

means of a locked gate and any other security measures necessary to prevent unauthorized entry.

12. No manufacture of Concentrated Cannabis in violation of California Health and Safety Code Section 11379.6 is allowed.

13. No Medical Marijuana Collective shall be open to or provide Medical Marijuana to its members or Management Members between the hours of seven o'clock (7:00) P.M. and nine o'clock (9:00) A.M.

14. No person under the age of eighteen (18) shall be allowed at the Collective's Property, unless that minor is a Qualified Patient and is accompanied by his or her licensed Attending Physician, parent(s) or documented legal guardian.

15. No member Collective shall possess Medical Marijuana that was not collectively cultivated by its Management Members or members at the Property location registered with the City of Long Beach.

16. No member Collective shall cause or permit the sale, dispensing, or consumption of alcoholic beverages on the Property or in the parking area of the Collective's Property.

17. No dried Medical Marijuana shall be stored at the Collective's Property in structures that are not completely enclosed, in an unlocked vault or safe, in any other unsecured storage structure, or in a safe or vault that is not bolted to the floor of the Property.

18. Medical Marijuana may not be inhaled, smoked, eaten, ingested, or otherwise consumed on the Property, in the parking areas of the Collective's Property, or in those areas restricted under the provisions of California Health and Safety Code Section 11362.79, which include:

a. Any place where smoking is prohibited by law;
b. Within one thousand feet (1,000') of the grounds of a school, recreation center, or youth center;
c. While on a school bus;
d. While in a motor vehicle that is being operated; or
e. While operating a boat.

19. No person who has been convicted within the previous ten(10) years of a felony or a crime of moral turpitude, or who is currently on parole or probation for the sale or distribution of a controlled substance, shall be engaged directly or indirectly in the management of the member Collective nor, further, shall manage or handle the receipts and expenses of the member Collective.

20. The Collective's property shall be monitored at all times by closed-circuit television for security purposes. The camera and recording system must be of adequate quality, color rendition and resolution to allow the ready identification of an individual on or adjacent to the property. The recordings shall be maintained at the property for a period of not less than thirty (30) days.

21. The Collective's property shall have a centrally-monitored fire and burglar alarm system.

22. A sign shall be posted in a conspicuous location inside the Collective's property advising:

1. The diversion of marijuana for nonmedical purposes is a violation of state law.

2. The use of marijuana may impair a person's ability to drive a motor vehicle or operate heavy machinery.

3. Loitering at the location of a medical marijuana collective for an illegal purpose is prohibited by California Penal Code Section 647(h).

4. This medical marijuana collective is registered in accordance with the laws of the City of Long Beach.

5. The sale of marijuana and the diversion of marijuana for nonmedical purposes are violations of state law.

23. Maintain the following accurate and truthful records on the Collective's property:

a. The full name, address and telephone number(s) of the owner, landlord and/or lessee of the Collective's property.

b. The full name, address and telephone number(s) and a fully legible copy of a government issued form of identification of each collective member engaged in the management of the collective and a description of the exact nature of the participation in the management of the collective. Acceptable forms of government issued identification include, but are not limited to: Drivers licenses or photo identity cards issued by state department of motor vehicles (or equivalent) that meets REAL ID benchmarks, a passport issued by the United States or by a foreign government, U.S. military ID cards (active duty or retired military and their dependents), or a permanent resident card.

c. The full name, address and telephone number(s) of each collective member and management member who participates in the collective cultivation of medical marijuana.

d. The full name, date of birth, residential address, and telephone number(s) of each collective member and management member; the date each member and management member joined the collective; the exact nature of each member's and management member's participation in the collective; and the status of each member and management member as a qualified patient or primary caregiver.

e. A written accounting of all cash and in-kind contributions, reimbursements, and reasonable compensation provided by the collective management members and members to the collective, and all expenditures and costs incurred by the collective.

f. An inventory record documenting the dates and amounts of medical marijuana cultivated at the property, and the daily amounts of medical marijuana stored on the property.

g. Proof of a valid medical marijuana collective registration submitted to the department of financial management in conformance with the laws of the City of Long Beach.

ORD-14

Security:

To ensure privacy, images from remote sites were prevented from downloading. Show Images

Honorable Mayor Foster and Council Members

Banning all medical marijuana dispensaries in Long Beach would be tantamount to closing all of the pharmacies and drug stores because of prescription drug abuse. As a nation, we seem readily able to tolerate the ever-growing misuse of physician prescribed medications but vilify a much safer herbal compound. Meds issued by pharmacies are estimated to kill over 700,000 Americans every year, yet there has not been one documented death from medical cannabis.

One of the myths touted as a reason to close these clinics is that they create crime. In fact, a recent independent Rand study handily proved otherwise. The report was so profound that political forces who have a vested monetary interest in perpetuating this myth put pressure on Rand to squash it. The reality is that should a ban be enacted, the juvenile gangs will be more than happy to step up to the plate with regulation becoming an impossibility.

I often hear naïve suggestions that the patients should grow their medicine, in their own backyards. Imagine yourself one day receiving the news from your doctor that you have cancer and may only have a few months to live--you must begin chemotherapy in a week. How will you have the resources, expertise, energy and time to grow the medicine that you will need? What if you live in an apartment? What if you are just too sick or disabled? How can you force a plant to grow to maturity in a week? The whole concept is absurd.

Until the Long Beach City Council is ready to close all of the pharmacies and drug stores, the bars and liquor stores, the tobacco and convenience stores that sell alcohol and tobacco, it is ludicrous for them to ban the medical marijuana dispensaries. For the patients who are ill and/or disabled, it would be cruel and inhumane.

Instead, the Council needs to work with the clinics and citizens to find a rational solution and reasonable regulations. In addition, they must petition the state of California to fulfill their obligation in this arena—"to implement a plan to provide for the safe and affordable distribution of marijuana to all patients in medical need of marijuana," as declared in the Compassionate Use Act of 1996.

Peace be with you,

Diana Lejins
POB 14446
LB, CA 90853-4446

Working to make the World a better place,

diana

RE: Ban on LB MMj Clinics cruel and inhumane 12-11
Don May

12-13-11
ORD-14

12/10/2011 05:06 PM

Aloha Long Beach City Council,

Diana Lejin's thoughtful letter to you made me think you may appreciate the difficulties caretakers of the elderly and disabled face in obtaining meds for their kapuna. Many of you will remember my wife, Renee May, for her work as CFO of Long Beach Boys & Girls Club and CFO of Family Service of Long Beach. Her mother, now 98 and living with severe dementia and chronic arthritis, lives with us. She has been unable to stand or speak in many years, but used to rub her hands and knees and grimace much of the time. I tried a concoction of cannabis extracted from home grown (with a medical marijuana permit) with ethanol, mixed with Vicks vapor rub, massaged into her hands, wrists and knees. She has stopped with the rubbing and pain face. Now she spends her days sitting on our lanai overlooking the He'eia wetlands and Ko'olau pali listening to the melodious shama thrush with a smile of contentment on her face. I truly believe she has never been happier in her life.

Although we have a compassionate use act over here, we do not have dispensaries where edible medicine and salves may be safely obtained. Proper preparation of useful meds is quite often beyond the capabilities of the most needy, even if the raw weed is available. Please do not take safe access away from Long Beach's most needy.

Another touching story appeared in today's New York Times:

Mele Kalikimaka and a Happy Prosperous New Year to all in Long Beach!

Don May

December 9, 2011

My Mother-in-Law's One High Day

By MARIE MYUNG-OK LEE

WHEN my mother-in-law was in the final, harrowing throes of pancreatic cancer, she had only one good day, and that was the day she smoked pot.

So I was heartened when, at the end of last month, the governors of Washington and Rhode Island petitioned the Obama administration to classify marijuana as a drug that could be prescribed and distributed for medical use. While medical marijuana is legal in 16 states, it is still outlawed under federal law.

My husband and I often thought of recommending marijuana to his mother. She was always nauseated from the chemotherapy drugs and could barely eat for weeks. She existed in a Percocet and morphine haze, constantly fretting that the sedation kept her from saying all the things she wanted to say to us, but unable to face the pain without it. And this was a woman who had such a high tolerance for pain, coupled with a distaste for drugs, that she insisted her dentist not use Novocain and gave birth to her two children without anesthesia. But despite marijuana's power to relieve pain

and nausea without loss of consciousness, we were afraid she would find even the suggestion of it scandalous. This was 1997, and my mother-in-law was a very proper, law-abiding woman, a graduate of Bryn Mawr College in the 1950s. She'd never even smoked a cigarette.

But then an older family friend who worked in an AIDS hospice came bearing what he said was very good quality marijuana. To our surprise, she said she'd consider it. My husband and I — though we knew nothing about marijuana paraphernalia — were dispatched to find a bong, as the friend suggested water-processing might make the smoking easier for her. We found ourselves in a head shop in one of the seedier neighborhoods in New Haven, where my husband went to graduate school, listening attentively to the clerk as he went over the finer points of bong taxonomy, finally just choosing one in her favorite color, lilac.

She had us take her out on the flagstone patio because she refused to smoke in her meticulously kept-up house. Then she looked about nervously, as if expecting the police to jump out of the bushes. She found it awkward and strange to smoke a bong, but after a few tries managed to get in two and a half hits.

And then she said she wanted to go out to eat.

For the past month, we'd been trying to get her to eat anything: fresh-squeezed carrot juice made in a special juicer, Korean rice gruel that I simmered for hours, soups, oatmeal, endless cans of Ensure. Sometimes she'd request some particular dish and we'd eagerly procure it, only to have her refuse it or fall back asleep before taking a bite. But this time she sat down at her favorite restaurant and ordered a gorgeous meal: whitefish poached with lemon, hot buttered rolls, salad — and ate every bite.

Then she wanted to go to Kimball's, a local ice cream place famous for cones topped with softball-size scoops. The family had been regular customers starting all the way back when my husband and his brother were children, but they hadn't been there since her illness. My husband and I shared a small cone, which we could not finish, and looked on in awe as my mother-in-law ordered a large and, queenishly spurning any requests for a taste, polished the whole thing off — cone and all — and declared herself satisfied.

We were of course raring to make the magic happen again, but it never did. The pot just frightened her too much. She was scared her friend would be arrested for interstate drug trafficking, that my husband and I would be mugged in New Haven; she was afraid she'd become addicted or (à la "Reefer Madness") go insane. It was difficult watching her reject something that had so clearly alleviated her nausea and pain and — let's admit it — lightened her mood in the face of the terrible fact that cancer had invaded nearly every essential organ. And it was even worse to watch her pumped, instead, full of narcotics that made her feel horrible. The Percocet gave her a painfully dry mouth, but even ice chips made her heave. We were reduced to swabbing her lips with little sponges dipped in water, and waiting out her agony.

My husband and I have dredged up the memory of that one good day many times since, how she smiled and joked, for the last time seeming a little like her old self.

After the funeral, saying goodbye to all the family and friends, supervising the removal of the hospital bed, bedpans and related paraphernalia, one of the last things my husband and I did, under the watchful eyes of the hospice nurse, was destroy her remaining Percocets. We opened the multiple bottles and knelt in front of the toilet to perform this secular water rite, wishing there had been other days, other ways, a softer way for her to leave us.

Marie Myung-Ok Lee, the author of the novel "Somebody's Daughter," teaches writing at Brown University.

From: diana lejins [mailto:dianalejins@yahoo.com]
Sent: Friday, December 09, 2011 11:47 AM
To: Suja Lowenthal; Patrick ODonnell; Gerrie Schipske; Dee Andrews; James Johnson; Rae Gabelich; Steve Neal; Gary DeLong; Bob Foster; Robert Garcia
Cc: Nancy Muth
Subject: Ban on LB MMj Clinics cruel and inhumane 12-11

Honorable Mayor Foster and Council Members

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Until the Long Beach City Council is ready to close all of the pharmacies and drug stores, the bars and liquor stores, the tobacco and convenience stores that sell alcohol and tobacco, it is ludicrous for them to ban the medical marijuana dispensaries. For the patients who are ill and/or disabled, it would be cruel and inhumane.

Instead, the Council needs to work with the clinics and citizens to find a rational solution and reasonable regulations. In addition, they must petition the state of California to fulfill their obligation in this arena—"to implement a plan to provide for the safe and affordable distribution of marijuana to all patients in medical need of marijuana," as declared in the Compassionate Use Act of 1996.

Peace be with you,

Diana Lejins
POB 14446
LB, CA 90853-4446

Working to make the World a better place,
diana

12-13-11 ORD-14

Citizen Mail Request to the Mayor

patteeburchett to mayor

My Area Of Concern: Comments and Questions

Dear Mayor,

We have never met, but I hold your position in high regard as a spokesperson for myself and other residents of our district. On Dec 13, you will meet with the council and discuss the medical marijuana collective issue again. You must be tired of it, no? Sir, I implore you to consider the needs of residents like myself when you debate. I am a 52 year old disabled female. I collect Social Security as my only income. Medical marijuana collectives provide a safe, regulated place for me to obtain my cannabis. I use it for an anxiety-related illness, as well as for fibromyalgia and COPD. Yes, COPD. Conversely enough, the strain of marijuana called "sativa" is an excellent way for me to battle that without additional prescribed medications, which I already take plenty of. I cannot tell you how I, personally, would suffer if my access was denied to a routinely used medication. The fear of trying to find an illegal "dope dealer" type at my age and stage in my life is BIG. not to mention the prices I would probably have to pay. I have never been in trouble with the law, and I am not about to start now. Please. Mr. O'Donnell, I am only one of many. Please help our message get through.

Respectfully,

Patricia Burchett

Long Beach, CA 90804

12-13-11

ORD-14

Citizen Mail Request to the Mayor

patteeburchett to mayor

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Respectfully,

Patricia Burchett

Day Phone: 5629300407

Evening Phone: 5629300407

1610 Loma Ave
Long Beach, CA 90804

E-mail: patteeburchett@aol.com

12-13-11

ORD-14

Constituent call regarding Medical Marijuana Item

Carmen Viramontes to: Nancy Muth 12/13/2011 02:48 PM

Dennis Cook called the Mayor's Office about his son who has a ADD. His son has been prescribed pharmaceuticals to deal with symptoms and the affects of medication are often worse than the actual disease. The family has been through a lot in coping with his son's disability.

His son has been able to reestablish some sense of normalcy since he's been using medical marijuana his son and the family is pleading with the City to allow dispensaries to stay open. It's the only thing that has helped his son behave and feel normal.

Regards,

Carmen Viramontes
Office of Mayor Bob Foster
333 W. Ocean Blvd., 14th Floor
Long Beach, CA 90802
PH: 562-570-5229 Fax: 562-570-6538

Note: My email address has changed. It is now carmen.viramontes@longbeach.gov. Please update your address book with my new email address.

ORD-14

Medical Marijuana Litigation Update

Pack, et al. v. Long Beach

December 13, 2011

Long Beach City Attorney's Office

Pack, et al. v. City of Long Beach

- In 2010, the City enacted LBMC Chapter 5.87 to regulate medical marijuana collectives by creating a permit scheme to both allow the cultivation and use of medical marijuana and protect public health and safety.
- 5.87 required each collective to obtain a permit and comply with specific regulations such as operational requirements and location restrictions.

Pack, et al. v. City of Long Beach

- In an effort to enjoin enforcement of the City's ordinance and permit process, patients of medical marijuana collectives filed Pack et al. v. City of Long Beach.
- The lawsuit alleged 5.87 permitted or compelled conduct prohibited by the federal Controlled Substances Act (CSA) and was thereby preempted by the federal law.

Pack, et al. v. City of Long Beach

- The Court of Appeal reviewed the *Pack* case to determine "whether the City's ordinance, which permits and regulates medical marijuana collectives rather than merely decriminalizing specific acts, is preempted by federal law."

Pack, et al. v. City of Long Beach

- On October 4, 2011, the Court of Appeal issued its decision in the *Pack* case.
- The Court determined that the City's permitting scheme to regulate medical marijuana was preempted by federal law.
- This decision struck down the core of the City's ordinance, and bars any permit scheme for medical marijuana.

Pack, et al. v. City of Long Beach

- The Court stated:
  - "Federal law prohibits the possession and distribution of marijuana...there is no exception for medical marijuana."
  - "The conclusion is inescapable...the permits instead authorize the operation of collectives by those which hold them. As such, the permit provisions, including the substantial application fees and renewal fees...are federally preempted."

Pack, et al. v. City of Long Beach

- The *Pack* decision effectively forbids the City from enacting any affirmative measure regulating medical marijuana to protect public health and safety.

Pack, et al. v. City of Long Beach

- Therefore, the City cannot do anything that would affirmatively promote the sale, possession, or distribution of marijuana, including:
  - Require a permit as a condition of operating in the City;
  - Adopt regulations related to the implementation of a lottery system in order to create buffers between sensitive land uses such as schools or parks and a dispensary;

Pack, et al. v. City of Long Beach

- Adopt regulations that would lead to the issuance of a permit to allow a medical marijuana cultivation site;
- Issue building, construction, or health permits that would facilitate the operation of a collective or cultivation site;
- Adopt regulations establishing fees in order to recoup the cost of staff time or expense related to the permitting or monitoring of a collective or cultivation site;

Pack, et al. v. City of Long Beach

- Conduct inspections of any medical marijuana site that would in any way suggest the City was permitting or acknowledging the legitimacy of the site;
- Require the testing of medical marijuana product to ensure the product is safe for consumption; or
- Limit the number of collectives in any given area or council district.

Pack, et al. v. City of Long Beach

- In reaching this decision, the Court gave "great weight" to the position of the U.S. Attorney General, to support its conclusion that a permitting scheme is preempted by federal law.

Pack, et al. v. City of Long Beach

- In November 2011, the 4 California U.S. Attorneys jointly reiterated that under state and federal law, for-profit dispensaries are illegal.

  (*Cal Health & Safety Code* § 11362.765(a): "Nor shall anything in this section authorize any individual or group to cultivate or distribute marijuana for profit.")

Pack, et al. v. City of Long Beach

- Moreover, the Court suggested that individual members of the City Council and City employees involved in the permit process may be subject to federal criminal prosecution for aiding and abetting a criminal offense by stating:

  "There may be an issue of whether the ordinance 'requires' certain City officials to violate federal law by aiding and abetting (or facilitating) a violation of the federal CSA."

Pack, et al. v. City of Long Beach

- On November 10, 2011, the City filed a Petition for Review with the State Supreme Court.
- In the interim, based on *Pack*, the City may not affirmatively regulate medical marijuana, but can declare dispensaries unlawful to protect the health, safety, and welfare of the community.

Pack, et al. v. City of Long Beach

- In response to the Court of Appeal decision in the *Pack* case, the City Council requested the following action by the City Attorney's Office:
  - 1. File a Petition for Review by the California Supreme Court (filed November 10, 2011).
  - 2. Draft an ordinance repealing Chapter 5.87.
  - 3. Draft an ordinance banning dispensaries in the City.

Date: December 13, 2011

To: Mayor Foster and Members of the City Council

From: Joan Greenwood, 2091 San Francisco Ave., Long Beach, CA 90806

RE: Agenda Item 14
Opposition to Emergency Ordinance

I am opposed to implementation of this ordinance as an emergency measure and am submitting the following documents for the public record:

1. "Maine Medical Use of Marijuana Program Annual Report", Department of Health and Human Services, March 2011
2. "Medical Marijuana Dispensaries Selected for all Eight Districts', Division of Licensing and Regulatory Services, Maine Department of Health and Human Services, December 13, 2011
3. "Maine's Medical Marijuana Law", Maine State Law and Legislative Reference Library downloaded on December 13, 2011 from http://www.maine.gov/legis/lawlib/medmarij.html
4. "Obama Administration to Stop Raids on medical Marijuana Dispensers", The New York Times, March 19, 2009 downloaded from http://www.nytimes.com/2009/03/19/us/19holder.html
5. "State and Federal Marijuana Laws Collide", USA Today, November 9, 2010 downloaded from http://www.usatoday.com/news/nation/2010-11-09-1Amedmarijuana09_ST_N.htm?loc=i...

These documents provide substantive information on the Medical Use of Marijuana Program for the State of Maine and the Justice Department's position on dispensaries operating in compliance with State law and local ordinances.

If the State of Maine with a population of under 1.4 million has the resources to develop, implement and monitor distribution of medical marijuana through authorized dispensaries, then the City of Long Beach is fully capable of taking a leadership role in this issue.

Key elements of Maine's approach authorized by a public vote in 2009 that were totally absent in the process followed in this City become very apparent when you read the March 2011 Annual Report (Reference 1 above). The most important differences are that Maine's program had considerable involvement of a Task Force to study implementation of similar laws in other states. The Task Force was also empowered to make recommendations for changes in the enacted law and to advise the Department of Health and Human Services (DHHS) in its development of proposed rules and fee schedules. The DHHS determined the need and general locations for dispensaries. Qualified dispensary operators were selected for each area based on responses to a Request For Proposals.

In addition, recommendations for medical marijuana use could only be issued by certified physicians for patients with "intractable pain", which eliminated many of the abuses that occur under our ordinance. Parents are required to accompany minor children on visits to the dispensaries. Liability concerns voiced by physicians are addressed by having patients sign a "consent to treat" form. Covering the costs for oversight by the DHHS is also discussed in the report.

Thank you for your time and consideration of the points that I have expressed this evening and the best practices followed in the State of Maine.

Department of Health and Human Services
Maine People Living
Safe, Healthy and Productive Lives

Paul R. LePage, Governor
Mary C. Mayhew, Commissioner

Department of Health and Human Services
Commissioner's Office
221 State Street
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Maine Medical Use of Marijuana Program
Annual Report

March, 2011

Submitted by:

Department of Health and Human Services

Introduction and Background

A landmark citizens' initiative made Maine the 14th state to have a medical marijuana law, and one of a handful of states to have a dispensary system to improve patient access to marijuana for medical use. The law that passed on November 3, 2009, created a fast paced timetable for the development of a distribution and registry identification system.

Several aspects of the new law were unclear, as was the method of administering the new requirements. Governor John E. Baldacci created, by Executive Order, a Task Force to:

- Review the implementation of similar laws in other states;
- Make recommendations on the implementation of the law in Maine, including recommendations for changes in the enacted law that are deemed necessary to ensure effective implementation and ongoing monitoring of the medical marijuana program, and protection of public health and safety; and
- Advise the Department of Health and Human Services in its development of proposed rules and fee schedules.

The Task Force report was submitted to the Governor on January 27, 2010, with suggested changes to the law. Public Law 2009 Chapter 631 amended the Maine Medical Use of Marijuana Act, with an effective date of April 9, 2010.

The Department of Health and Human Services is required to submit an annual report by April 1st each year that does not disclose any identifying information about cardholders or physicians, but does contain, at a minimum:

A. The number of applications and renewals filed for registry identification cards;
B. The number of qualifying patients and primary caregivers approved in each county;
C. The nature of the debilitating medical conditions of the qualifying patients;
D. The number of registry identification cards revoked;
E. The number of physicians providing written certifications for qualifying patients;
F. The number of registered dispensaries; and
G. The number of principal officers, board members, and employees of dispensaries.

The purpose of this report is to fulfill that requirement.

The initiated bill also required the Maine Medical Use of Marijuana Program to be self-sustaining and totally funded from fees collected under the program. The law also allows the program to receive donations. In addition to reporting on the program to the Joint Standing Committees on Criminal Justice and Health and Human Services, the law requires a report to the Joint Standing Committee on Appropriations to account for advances made to the program from the General Fund, as follows:

> For fiscal year 2010-11, the State Controller is authorized to advance up to $250,000 from the General Fund to the Medical Use of Marijuana Fund, established under the Maine Revised Statutes, Title 22, Section 2430 in the Department of Health and Human Services, to provide start-up funds for the implementation of this Act.
>
> Funds advanced to the Medical Use of Marijuana Fund under this section for fiscal year 2010-11 must be returned to the General Fund on or before June 30, 2011. Repayment of the working capital advance is considered an expense of the Department of Health and Human Services in administering this Act, and funds in the Medical Use of Marijuana Fund may be used to repay the working capital advance provided during fiscal year 2010-11.
>
> On April 1, 2011, the State Controller and the Department of Health and Human Services shall report to the joint standing committees of the Legislature having jurisdiction over health and human services matters and appropriations and financial affairs on the status of funds advanced and repaid under this section.

This report is intended to provide a report on this requirement, as well.

Program Start-Up Challenges, Issues and Policy Considerations

The work required to implement the Maine Medical Use of Marijuana Program, hereinafter referred to as MMMP, started the day after the initiated bill was passed by the voters. There were many challenges:

1. **Interface between the new and old law.** Clarity between the old informal affirmative defense system of obtaining marijuana with permission of the physician and the new registry identification card system was not provided until Public Law 2009 Chapter 631 was passed on April 9, 2010. It allowed patients using marijuana for medical purposes a six month period of time to become compliant with the new system.

   Thus, the window of opportunity to provide public information to patients, caregivers and physicians about how the new program would be structured was small. Transparency in the development of the program was crucial. Information concerning the MMMP was added to the Department's website. The media provided excellent coverage in order to reach as many citizens as possible with developing information.

   In the end, many caregivers and patients waited until the informal system expired, or was about to expire, to apply. By November 30, 2010, 109 registry cards had been issued, and the program was keeping up with the incoming applications. March 15, 2011, the number of applications approved grew to 773.

2. **Rule development.** While the Governor's Task Force held its meetings, the Department began to draft conceptual rules to demonstrate how the program might be structured in response to the citizens' initiated law. It wasn't until Public Law 2009 Chapter 631 was passed, however, that rules could be finalized.

   By July 1, 2010, the department was required to have routine technical rules in place. The deadline for accepting applications was July 1, 2010. Emergency rules were adopted on May 4, 2010, and permanent rulemaking was completed with an effective August 4, 2010. To obtain as much public comment as possible, the Department utilized all avenues of media to advertise the public hearing on the proposed rules. The hearing took place at the committee room of the Joint Standing Committee on Health and Human Services, allowing the hearing to be broadcast.

3. **Resource allocation.** Two positions were authorized for SFY '11. Neither position was created in time to prepare for the program start-up on July 1, 2010, since the statutory authority only became final on April 9, 2010. The law specified that if the Department was not accepting applications by July 1, 2010, then qualifying patients could commence an action in Superior Court to compel the department to perform the actions mandated pursuant to the provisions of this chapter. The department began accepting applications in May and met the statutory requirement with existing resources. The positions approved to manage the program were filled in July and August 2010.

Two aspects of the new law required the expenditure of resources to develop the technology necessary to manage the Registry identification card system and to implement the requirement that the department verify to law enforcement personnel whether a registry identification card is valid [without disclosing more information than is reasonably necessary to verify the authenticity of the registry identification card]. Law enforcement need for this information is 24 hours a day, 7 days a week.

The Department engaged Sauper Associates of New Jersey to reconfigure their Automated Licensing Management System, hereinafter ALMS, to meet the needs of the Registry. ALMS is the platform for managing professional licensing at the Department of Professional and Financial Regulation, and this provided a fast turnaround for a functional Registry management data system.

The licensing functionality and minimal standard reporting allows staff to manage the program day-to-day. To renew cards, track complaints and schedule inspections under MMMP, additional features must be configured. In order to prepare this report, an additional view of ALMS data was required.

4. **Law enforcement.** Benefits to patients and caregivers under the MMMP are significant. Under the informal law, a patient or caregiver could be arrested for possession of marijuana and have an "affirmative defense" in court if they had a letter from a physician authorizing them to use marijuana for medical conditions. The new law provides a registration process and anyone with a valid Registry identification card will not be arrested if they are engaged in authorized conduct.

   There are several reasons why simply relying on a Registry identification card is not enough for law enforcement. Caregivers are authorized to grow marijuana for their patients. If their patient is no longer participating in the program, then their authority ceases, even though they may have a Registry identification card in their position.

   Another reason is prompted by drug enforcement. Law enforcement officials may be pursuing an investigation regarding grow operations. Before entering with a search warrant, determining that a legitimate growing operation is approved at that location will save time and resources.

   An interface between the MMMP database and the Department of Public Safety metro switch was designed and is ready for testing. This will provide law enforcement roadside access to data to verify a card holder's participation in the MMMP or to validate the location of a growing operation. Currently, the system is dependent on a telephone call to DLRS, and only limited staff have access to the data.

5. **Dispensary development.** Public Law 2009 Chapter 631 limited the number of dispensaries that could be authorized to eight. It specified that no more than one could be approved in each of the eight public health districts. This necessitated a competitive bidding process and the development of criteria for selection of the most appropriate application for each district.

By July 1, 2010, the Department had selected six applications. Two of the districts failed to attract applications that met the minimum scoring required. Those two districts were rebid and selections made in August 2010.

Municipalities have played a central role in the development and location of growing locations and dispensary sites. Public Law 2009 Chapter 631 provided little guidance to municipalities on local zoning and ordinance development. Immediately, many municipalities began implementing local moratoriums. While many have already completed their local regulation requirements, several have extended their moratoriums.

The Department anticipated that municipalities would need time to carry out their local processes. No points were awarded to applicants based on location. This foresight, in the end, provided applicants the time needed to work with local officials, even if it meant moving their sites to other locations or municipalities within the district.

6. **Medical conditions.** Start-up challenges related to medical conditions involved public education of patients and physicians. It was clear that some patients who were authorized by their physicians under the informal system would not qualify under the new program.

   Explaining the definition of "intractable pain" was of the most concern to the Department with regard to physician certification. It is also difficult to explain to patients that their real pain may not reach the level of "intractable" and that might be the reason why their physician is unwilling to authorize their use of marijuana. Other conditions appear to be more objectively diagnosed.

   Some physicians have expressed concern that their patients are merely drug seeking, and may be seeing multiple physicians for prescribed medications and for authorization to use marijuana. This perceived conflict may cause physicians to forego this method of treatment in patients who may indeed benefit from it and possibly decrease their use of addicting pain medications and their side effects. A concern expressed is that the recommendation for marijuana is not included on the Maine Prescription Monitoring Program.

   Many patients found it difficult to locate physicians who would consider their use of marijuana for medical conditions. The name of physicians in the program was made confidential by the law. The Maine Medical Association provided a great deal of education to its members about the MMMP and the unduplicated count of physicians participating is steadily increasing. The number of unique physicians is currently 118. Physicians are still concerned with the liability attached to their recommendations should a patient either have an adverse reaction, a drug interaction, or be involved in an accident. Some employers have prohibited their physicians from recommending the use of marijuana. The physician certification forms developed by the Department were augmented by a "consent to treatment" form to be signed by their patients.

7. **Caregivers.** There is a fine line between authorized and illegal conduct. Some growers of marijuana for medical use have been in "business" for a long period of time. They will compete with dispensaries for patients. They are very organized and networked throughout the state. They advertise on the internet for patients. They advertise that they buy and sell across state lines. They advertise they can find physicians who will certify patients for marijuana. They advertise they buy and sell seeds and clones. This is reflective of the medical marijuana culture that existed prior to the formalization of the new Registry system and anticipated inspections of caregiver grow sites. The transition to a regulated industry will bring its enforcement challenges. It will take some time for conformance to be achieved.

   The Department does not have a law enforcement function. Inspection of caregiver grow locations has not yet been scheduled due to the newness of the program. Inspections will be conducted with 24 hours notice, and limited to those locations where caregivers grow for three or more patients. Inspections will be limited to whether the marijuana is grown in the required enclosed locked facility, and whether the number of plants and amounts of prepared marijuana are within lawful limits. If unlawful activity is identified, a referral to law enforcement will ensue. The Department may also take samples of marijuana to test for pesticides, mold, mildew and heavy metals.

   Law enforcement officers have expressed concern that the Department may not have adequately regulated the number of seedlings caregivers can possess for each patient. While some of their investigations found caregivers under the informal system possessed the correct number of mature plants, the excessive number of seedlings in possession was far greater than needed to produce the proper sized crop, suggesting that a black market operation may be occurring.

   Unraveling both authorized and unauthorized conduct will continue to be a challenge. The Department is considering whether to further regulate and define the amount of "incidental" marijuana that may be possessed. Not enough is known about the number of seedlings needed to yield six mature plants.

   The quality of medical marijuana is not a science that has been rigorously studied. In contrast to dispensaries, which will be highly regulated, patients will have less information about the quality of the marijuana grown by caregivers. Decisions to grow marijuana, obtain it from a caregiver, or obtain it from a dispensary will be solely a patient decision. The department does not promote one source of marijuana over others. It also does not provide information about individual caregivers, but does provide contact information for the dispensaries because it is public information.

   Quality can be defined in various ways. Little peer reviewed literature is available concerning the medical qualities of marijuana. Most research available on the internet is anecdotal as are compilations of experiences in the use of marijuana for various medical conditions, some of which are authorized by Maine law.

Patients want marijuana that contains the right amount of THC (delta-9-tetrahydrocannabinol) and cannabinoids that provide relief for their medical condition. Testing for these levels is not required, nor is it readily available since marijuana is still an illegal drug from a federal perspective. Such testing may be routinely done at dispensaries, and the information provided to patients. However, it is not known whether it will be done at the individual caregiver level.

Anecdotally, a few patients have already terminated a relationship with a caregiver over the quality and price of the marijuana. Not only did the patient feel the quality was inferior, the caregiver, who was recommended to the patient by an internet social media site, did not disclose his/her full name, where the marijuana was grown or how it was grown. Marijuana is susceptible to mold and mildew if not properly grown, and this could make sick patients sicker.

8. **Individuals on probation.** Several inquiries to the MMMP have been made by probationers and those who are incarcerated. A general response to incarcerated individuals is that they cannot possess it in jail facilities of any kind.

   Probationers at both the state and federal levels who have conditions that qualify for the medical use of marijuana have posed different issues. The Department has conferred on some case-specific issues as well as conducted general training in the MMMP for federal parole officers.

   Regardless of whether it is a state or federal probationary case, thought should be given to the conditions for probation on an individual basis when a patient's physician recommends the use of marijuana for medical purposes. Probation officials have generally commented a lack of concern about use for medical reasons, but came short of recommending patients grow it for themselves.

9. **Hash and kief.** Hash and kief are still illegal to possess or sell. When interpreting the Maine Medical Use of Marijuana Act, as amended, it is important to interpret it in concert with the Maine Criminal Code.

10. **Price.** Some individuals have commented that by accepting the proposals from dispensaries, the state has "set the price" of marijuana obtained from dispensaries. This is not the case. Price will be a function of cost of production, demand and competition. All dispensaries have indicated that marijuana will be available on a sliding fee scale, using any number of formulas for determining "inability to pay". The price per ounce indicated in each of the business plans was the assumption used to determine whether the income expected would cover expenses at a set price. Dispensaries will be operated on a non-profit basis and should not be generating large amounts of revenue in excess of expenses, and all should have a plan for distributing their net revenues at the end of each year, after taking into account their business needs, e.g. expansion or renovation needs.

An interesting point regarding price is the relationship between the price of marijuana acquired from dispensaries and that purchased on the black market. Theoretically, if a patient could purchase marijuana at a reduce price from a dispensary, the patient can sell it on the black market and make money. While this concern has been expressed, there is no way to prevent this from occurring.

11. **Substance abuse and addiction.** Dispensaries are required to provide patients information with regard to substance abuse issues, and recognizing the signs of addiction. There is controversy over whether marijuana is in fact addicting. The concern for the MMMP program is for the patient to take the right amount at the right dose and at the right time, as with any legal drug. Dispensaries will assist patients in finding a therapeutic dose and provide tracking sheets for patients to monitor the dosage against the relief. In the event the patient builds a tolerance to the particular strain of marijuana that requires increased dosing, it is recommended that the dispensary work with the patient to find another strain that can be taken at lower doses. The dispensaries have agreed to collect information on the amount of marijuana dispensed for the varying medical conditions to gain more insight into the therapeutic value for those conditions.

12. **Confidentiality.** Public Law 2009 Chapter 631 explicitly states what must be printed on the Registry identification cards. During design and start-up, the Department realized that caregiver cards do not have to identify the patient by name. Having this name on the card could result in unwarranted knowledge that an individual is a patient in the MMMP when there is no need for law enforcement to know this information. Thus, the Department recommends that this information be deleted and that the patient's randomized number be included on the card instead.

    Patient concerns about confidentiality of their medical information continue, even though the information is protected by statute. Potential patients also complain that physician and caregiver names are confidential and they are unable to obtain names from the MMMP. The Department does not support a change that would require the release of names of possible physicians and caregivers, even with that individual's permission, because it could have the appearance of a recommendation which could subject the Department to a liability.

13. **Photo identification.** While the statute provides the authority for the Department to require an individual's photograph on the Registry identification card, this was determined to be a costly and impractical requirement. Instead, the Department requires that a copy of the individual's driver license or other state-issued photo identification card be submitted with the application, and that the card holder present their driver license or photo identification in conjunction with their Registry card for positive identification.

Division of Licensing and Regulatory Services

Medical Marijuana Dispensaries Selected for all Eight Districts

The Division of Licensing and Regulatory Services (DLRS) in the Department of Health and Human Services announced the selection the last two dispensaries needed to complete the statewide dispensary system.

The dispensary system has been established to assist registered patients whose physicians believe they will benefit from the medical use of marijuana for certain serious medical conditions.

The dispensaries were chosen based on criteria outlined in the application instructions, including their plan to operate as a non-profit corporation long-term, convenience of location, prior business experience, patient education, record-keeping, inventory, and quality control.

Those who obtained the highest scores in their Districts and met the required minimum score of 70 were :

- District 1 (York County): Safe harbor Maine, Inc.
- District 2 (Cumberland County): Northeast Patients Group (PDF*(19.01MB))
- District 3 (Franklin, Oxford, Androscoggin): Remedy Compassion Center (PDF* (8.21MB))
- District 4 (Waldo, Lincoln, Sagadahoc, Knox): Northeast Patients Group (PDF* (18.65MB))
- District 5 (Somerset, Kennebec): Northeast Patients Group (PDF*(18.72MB))
- District 6 (Piscataquis, Penobscot): Northeast Patients Group (PDF*(18.61MB))
- District 7 (Hancock, Washington): Primary Organic Therapy, Inc.
- District 8 (Aroostook): Safe Alternatives of Fort Kent (PDF*(10.49MB))

Cathy Cobb, Director of DLRS, said that she will be meeting with the dispensaries chief executives to review their progress and to discuss next steps. She anticipates it will take between two and three months for a dispensary to be open to patients.

Medical Marijuana Winning Applicant Information

District/Award	Proposed Location	Contact

D1 - Canuvo, Inc.	6 Wellspring Road Biddeford, ME	Glenn Peterson (207) 346-1316
D2 - Northeast Patients Group	959 Congress St. Portland	Rebecca DeKeuster, M.Ed. (207) 358-8833
D3 – Remedy Compassion Center	730 Center Street., Suite 1-C, Auburn Plaza Auburn, ME 04210	Timothy Smale (800) 809-1464
D4- Northeast Patients Group	153 New County Road Thomaston	Rebecca DeKeuster, M.Ed. (207) 358-8833
D5 - Northeast Patients Group 13	Water Street Waterville or 10 Middle Road, Augusta	Rebecca DeKeuster, M.Ed. (207) 358-8833
D6 -Northeast Patients Group	601 Coldbrook Road Hermon	Rebecca DeKeuster, M.Ed. (207) 358-8833
D7 - Primary Organic Therapies	106 Maine Street Whitneyville, ME	Derek Brock (888) 360-0650
D8 – Safe Alternatives of Fort Kent	267 Main Street Fort Kent	Mills Leo Trudell (207) 316-6190

View Scoring Sheet (PDF)

Credits

Maine's Medical Marijuana Law

Maine State Law and Legislative Reference Library

IMPLEMENTATION

DHHS Div. of Licensing and Regulatory Services

Agency Rules

Maine Medical Use of Marijuana Program Annual Report (March 2011)

PL 2009, c. 631

- LD 1811 (Governor's bill in 2010)
- Maine Medical Assoc. testimony

PL 2011, c. 383

PL 2011, c. 407

TASK FORCE

- Report to the Governor (Jan '10)
- Report Cover Letter
- DHHS Task

Maine has allowed prescribing, and limited possession, of medical marijuana since 1999 but the law lacked any distribution mechanism and questions arose of noncompliance with federal law and of how patients could legally obtain the prescribed marijuana. In October the Obama adminstration announced that it would halt prosecution of medical marijuana users and caregivers if they were in compliance with their state's law [*read more*]. On November 3, 2009 Maine voters approved Question 5, which enacted the citizen-initiated bill, "An act to establish the Maine Medical Marijuana Act" (LD 975, IB 2). The committee file for LD 975 contains additional information, such as the activity schedule, testimony sign-in sheet, testimony submitted at the public hearing, working papers and memoranda of the Joint Standing Committee on Health and Human Services, and the committee vote tally sheet. (The contents of the file are not word searchable.)

Maine is the fifth state to provide for dispensaries of medical grade marijuana for persons with debilitating and chronic medical conditions. These not-for-profit dispensaries will be licensed and regulated by the Maine Department of Health and Human Services.

So, when will dispensaries open? Maine election results were verified by the Secretary of State [see tabulations]. Governor Baldacci's press release of November 6, 2009 detailed an executive order which set up a task force chaired by Brenda Harvey, Commissioner of DHHS. On November 17, 2009, the Governor announced the names of the members of the task force. The Task Force issued its report to the Governor on January 27, 2010. The subsequent 2010 enactment of LD 1811, the

ARTICLES

Pot patient privacy bill gets LePage OK *6-19-11*

Maine – Panel Oks Bill To Kill Marijuana Registry *5-15-11*

Bill eases Maine's medical marijuana rules *4-24-11*

Maine to open first medicinal marijuana dispensaries on East Coast, but not without concerns *3-6-11*

Councilors adopt medical marijuana rules *12-8-10*

Medical marijuana despensary to open in Maine *11-18-10*

From 'marijuana is an herb' to 'how did this happen?' - *11-15-10*

Auburn site OK'd for marijuana dispensary *11-14-*

Force webpage
- Governor's Executive Order (Nov '09)
- Members and meetings

SECRETARY OF STATE

- Nov '09 Election results by county

OTHER DISPENSARY STATES

- Rhode Island
- New Mexico
- Colorado
- California

U. S. DEPT. OF JUSTICE

- Memo re: investigations and prosecutions (Oct '09)

Governor's bill, paved the way for promulgation of agency rules under the Administrative Procedures Act. Emergency rules were adopted on May 5, 2010 . Only eight dispensaries (one for each of the eight districts) will be approved the first year. Instructions and applications, as well as the text of the rules, are available on DHHS' Division of Licensing and Regulatory Services webpage.

Local governments are also preparing for implementation of the law. Initially one community enacted a moratorium on the dispensaries. Brewer's city council voted unanimously to ban dispensaries for six months until the state rules and procedures for operating the dispensaries are in place. Since then Auburn, Ellsworth and South Portland have enacted or plan to enact similar moratoriums. For more recent developments see articles linked in the tan column on the right.

10

State and federal marijuana laws collide *11-9-10*

Maine's first dance with Mary Jane *8-15-10*

Some Mainers object to California connection *8-15-10*

Dispensaries "starting to crack the closet door" *8-15-10*

Medical marijuana - caught Between state and federal law: what is an employer to do? *8-13-10*

Maine's medical marijuana law runs into federal conflicts *7-13-10*

Northeast Patients Group snares four of six marijuana dispensary licenses *7-13-10*

State picks 3 groups to grow, sell medical pot 7-10-10

Applications to Operate Maine's Medical Marijuana Dispensaries Pour

Obama Administration to Stop Raids on Medical Marijuana Dispensers

By DAVID JOHNSTON and NEIL A. LEWIS

Published: March 18, 2009

Eric H. Holder Jr. outlined a new enforcement policy.

Related

Times Topics: Marijuana

WASHINGTON — Attorney General Eric H. Holder Jr. on Wednesday outlined a shift in the enforcement of federal drug laws, saying the administration would effectively end the Bush administration's frequent raids on distributors of medical marijuana.

Speaking with reporters, Mr. Holder provided few specifics but said the Justice Department's enforcement policy would now be restricted to traffickers who falsely masqueraded as medical dispensaries and "use medical marijuana laws as a shield."

In the Bush administration, federal agents raided medical marijuana distributors that violated federal statutes even if the dispensaries appeared to be complying with state laws. The raids produced a flood of complaints, particularly in California, which in 1996 became the first state to legalize marijuana sales to people with doctors' prescriptions.

Graham Boyd, the director of the American Civil Liberties Union drug law project, said Mr. Holder's remarks created a reasonable balance between conflicting state and federal laws and "seem to finally end the policy war over medical marijuana." He said officials in California and the 12 other states that have authorized the use of medical marijuana had hesitated to adopt regulations to carry out their laws because of uncertainty created by the Bush administration.

Mr. Holder said the new approach was consistent with statements made by President Obama in the campaign and was based on an assessment of how to allocate scarce enforcement resources. He said dispensaries operating in accord with California law would not be a priority for the administration.

Mr. Holder's comments appeared to be an effort to clarify the policy after some news reports last month interpreted his answer to a reporter's question to be a flat assertion that all raids on marijuana growers would cease. Department officials said Mr. Holder had not intended to assert any policy change last month but was decidedly doing so on Wednesday.

Ethan Nadelmann, the founder of the Drug Policy Alliance, said Mr. Holder was telling the Drug Enforcement Administration that it should leave legitimate growers

of medical marijuana untouched. "The message from the Bush Justice Department was 'watch out — we have the authority to go after everybody,' " he said.

On other matters, in his first wide-ranging conversation with reporters as attorney general, Mr. Holder said the Justice Department was still reviewing the case files of detainees held at Guantánamo Bay, Cuba, to determine whether they could be released or would be tried in a civilian criminal court or some other legal forum. He said it was possible that some detainees like the Uighurs held in Cuba could be released into the United States.

He also said the department was "monitoring" developments related to accusations of abuse of detainees by the Central Intelligence Agency, but stopped short of endorsing the appointment of a special prosecutor. "We will let the law and facts take us to wherever we need to go," he said.

Mr. Holder said the department should be open to preserving a healthy newspaper industry. He said he would consider adjusting enforcement of antitrust statutes if that would help news organizations develop collective distribution systems.

A version of this article appeared in print on March 19, 2009, on page A20 of the New York edition.

USA TODAY

State and federal marijuana laws collide

Updated 11/9/2010 1:49 AM

By Oren Dorell, USA TODAY

By Craig Fritz for USA TODAY

Patients who use marijuana in states where it's legal for medicinal puproses are getting into trouble under federal law.

People who use marijuana for medicinal purposes in states where it is legal are being penalized by the federal government because pot is still illegal under U.S. law.

At Denver unemployment offices, medical users fired for failing a drug test are denied unemployment benefits, says lawyer Kimberlie Ryan, who represents some of those applicants.

In California, Jim Lacy, 60, who has an arthritic hip and uses medical marijuana for pain relief, says he has had his stash confiscated and been threatened with arrest at Border Patrol checkpoints near his Jacumba home.

LAWS: Conflicts trap patients on marijuana

MARIJUANA: Doctors help make pot available in Calif.

MORE: Medical pot use, job rules can conflict

In Las Vegas, N.M., cancer patient Robert Jones, 70, says he has been notified that his federal rent subsidy is being revoked because he is a medical-marijuana user.

Marijuana dispensary operator Steve DeAngelo of Harborside Health Center in Oakland says his federally insured bank dumped his account because he deals in an illegal drug.

Problems occur at airport security checkpoints in medical marijuana states. Baggage screeners, who work for the federal Transportation Security Administration, turn medical marijuana users over to local police for prosecution, according to Ed Skvarna, chief of the Burbank airport police.

"It's outrageous, but the government's cannabis policies are outrageous," says Bill Panzer, an Oakland lawyer who co-wrote the nation's first medical-marijuana law, approved by California voters in 1996.

The White House Office of National Drug Control Policy website says smoking marijuana "is not considered modern medicine." It says the drug has a high potential for abuse, the smoke can be as harmful as cigarettes, and it has not been proven effective under the standards of the Food and Drug Administration.

The Justice Department does not usually prosecute medical-marijuana users, but officials of other federal agencies say they are required to treat pot as an illegal drug.

"We're charged with enforcing federal law," says

USA TODAY

Border Patrol spokeswoman Kelly Ivahnenko.

Landlords "may exercise discretion" in deciding whether to evict tenants who use medical marijuana, says Helen Kanovsky, general counsel for the Department of Housing and Urban Development. New Mexico HUD administrator Mandy Griego says HUD's policy is that pot, "for medicinal purposes or not," is prohibited at HUD-subsidized properties, and termination for possession "must be applied consistently for all tenants."

Certificate of Occupancy

City of Long Beach
Department of Development Services
Building and Safety Bureau

This certificate is issued pursuant to the requirements of Chapter 18.08 of the Long Beach Municipal Code (L.B.M.C.) certifying that at the time of issuance this building or structure, or portion thereof, was in compliance with the provisions of Title 18 of the L.B.M.C., other ordinances of the City or laws and statutes of the State regulating building construction or use for the following:

Permit No.: BRMD123848 Name of Owner: Richard Gardner

Permit Address: 1302 Gaylord St. Address of Owner: 1700 SE Mile Hill Dr. #124

Long Beach, Ca Port Orchard, WA 98366-3552

Portion of Building:

Work Description: Change existing use from warehouse to medical marijuana collective (dispensary and cultivate); TI include new partition walls and doors for 1 cultivation room (682 sf), 1 dispensary room (300 sf), equipment/control/lobby room (572 sf), 1 drying/packaging area and 6927 sf of low-pile storage area; includes upgrading 1 accessible restroom.

Use: Medical Marijuana Collective Occupancy Type: M/U/S-1/B/F-1

Type of Construction: V-B Max. Occupancy Load: -

Sprinkler Required: No Edition of the Code: 2010 CBC

Any special stipulations or conditions:

Building Official	7/22/11 Date Permit Issued	9/21/11 Date Certificate Issued

POST IN A CONSPICUOUS PLACE ON THE PREMISES

12-13-11 ORD-14 Valerie Cass

12-13-11
ORD-14

Keep Medical Marijuana Collectives in Long Beach !

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We, the undersigned, are formally protesting this city-wide ban on medical marijuana collectives.

Thank you.

Name (print clearly)	Signature	Address	Driver's License Number	Email	Date
1. Jerid Andrews	Jerid Andrews	5211 Locust Ave	E2619782		11-13-11
2. Rickey Rathmell	Rickey Rathmell	451 E 55st			11-13-11
3. Cynthia Wills	Cynthia Wills	7553 Josie Ave LW, CA			11-13-11
4.					
5.					
6.					
7.					
8.					
9.					
10.					

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Name (print clearly)	Signature	Address	Driver's License Number	Email	Date
1. Tiffany Upton	Upton	137 E. 81st street LA, 90061	B4795501	renarene069@yahoo.com	12-12-11
2. Jose Luna		1508 N. Chester ave Compton CA 90221 - D6444	13 Long Jose [illegible]		12-12-11
3. Andrew Sherman		6022 SAN Antonio DR Long Beach CA,	D1623135		12-12-11
4. LESTER TORRES		6360 N. PARAMOUNT APT#2	B9249669		12-13-11
5. Lori Chalk	Lori Chalk	14214 E 208th St	C1829598		12-13-11
6. Brittany Schmidt		462 3/N Banner 90807	D0663371		12-13-11
7.					
8.					
9.					
10.					

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Name (print clearly)	Signature	Address	Driver's License Number	Email	Date
1. JACKIE GLOVER	Jackie Glover	P.O. BOX 611 Garden, CA	H0691718	—	12/13/11
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					

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Name (print clearly)	Signature	Address	Driver's License Number	Email	Date
1. Enzo Ricciardi	Enzo Ricciardi	1425 E 1st Street LBC	F2352819	enjoienjoy@yahoo.com	12/9/11
2. Roy L-Ray	Roy Lee Ray	721 olive Ave	F1744165	Royray71@yahoo.com	12/9/11
3. Antonio Williams	[illegible]	3362 Delta Av.			12/9/11
4. Russell ArmanTrout	[illegible]	2490 Golf Fred ave L.B	A7374286		12/9/11
5. Dominique Loving	Dominique Loving	61 W. Market st LBC 90805		spoildrotenbrat@yahoo.com	12/9/2011
6. Marcus Ross	Marcus Ross	9319 park st bellflower CA	D5298255	rossmarcus23@yahoo	12/9/2011
7. Robert Billingsley	[illegible]	1317 E Alondra compton	A8155852	[illegible]@yahoo.com	12/9/2011
8. Marilyn Rodriguez	[illegible]	2745 Jackson ST LB 90810	A10322453	Marilyn-RGA#1	12/9/2011
9. Jermaine Hill	[illegible]	247 Hullett St	B474[illegible]		12/10/2011
10. Melba Jones	Melba Jones	1749 Lewis			12-9-11

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Name (print clearly)	Signature	Address	Driver's License Number	Email	Date
1. Contin C. Hon	[signature]	639 LIME AVE apt #	D-207819	Conte.C.Hon@rocketmail	12-10-11
2. Leroy Glunt	[signature]	366 Pacific Ave	D8432754	l-Glunt@live.com	12-10-11
3. Troy Drexl	[signature]	3051 astrom AVE	F1121740	troydrexl@aim.com	12-10-11
4. Rachel Hogan	[signature]	1032 E. Silva St.	D9858938	lonlione@yahoo.com	12-10/11
5. Marco Zarate	[signature]	1024 Silva St	D7674233	RRago562@AOL.com	12-10-11
6. JAMMIE MORGAN	[signature]	2024 LOCUST AVE #15	B5739755	JaySumers@Hotmail.com	12/10/11
7. JUSTIN METSKER	[signature]	5509 CLARK AVE	A3747558	JUSTIN.METSKER@Yahoo.com	12-10-11
8. Mark Sesson	[signature]	1750 Pine ave #	B3947647		12-10-11
9. Bernard Roelofs	[signature]	258 E. Vernon	D4042542	Bvinquest@Gmail.com	12-10-11
10. William Alvord	[signature]	3732 California AVE	D4425720	Lbc562bcb@yahoo	12-10-11

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Name (print clearly)	Signature	Address	Driver's License Number	Email	Date
1. Dorian Brooks	[illegible]		D3554574	Brozzwx@gmail.com	12/10/11
2. D Urwood Kersh	[illegible]		N3&&2924	Kempsman Ko@yahoo.com	12-10-11
3. Christian Hawker	[illegible]	3176 Walnut Ave Long Beach 90807	F2554566	LongBeach56793@live.com	12-10-11
4. Dustin Orost	[illegible]	731 E. Carson St. #2 LB CA 90809	D7392592	e.orost79@gmail.com	12/10/11
5. Marcos Luna	[illegible]	905 w Spruce st compton	D2637013	Marcos luna95@gmail.com	12/10/11
6. Cynthia Shigg	[illegible]	16311 G. Carlo Cue Cpt	V9022642	shiggcynthia@aol.com	12/10/11
7. Debra DeFranco	[illegible]	2033 # C Pacific Ave LBC	A3313659	debdefranco@hotmail.com	12/10/11
8. Amaury Luquero	[illegible]	3667 Delta Ave. Long Beach 90810	D4608961		12/10/11
9. Zina Parker	[illegible]	2222 N Bullis Rd Compton CA 90224			12-10-11
10. Davey Pulido	[illegible]	Bellflower Ca.	A4982579		12-10-11

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Name (print clearly)	Signature	Address	Driver's License Number	Email	Date
1. GARY ALDCROFT	[illegible]	3717 CALIF AVE	C3581558	GTALDCROFT@G.MAIL.com	12/10/11
2. Veronica M.	Veronica M[illegible]	5570 Elm AVE LB	N/A	N/A	12/10/11
3. Eric E.	[illegible]			Emily Quesada143@msn.com	12/10/11
4. Geoff vanderLee	Geoff vanderLee	3039 Lemon Ave. LB 90807	C0579[illegible]		12/10/11
5. Ruben Fuentes	[illegible]	3622 walnut Ave	F2668999		12-10-11
6. Marcy Lebeau	[illegible]	3017 Maine Ave Long Beach	N[illegible]9065	mlebeau@csulb.edu	12/10/11
7. Troy Lambert	[illegible]	2125 Atlantic Ave. LB	D1064279		12/10/11
8. Jimena Mejia	[illegible]	5635 walnut Ave, LB		jimena324@aol.com	12/10/11
9. Barbara Johnson	Barbara Johnson	1940 Pine #6			12-10-11
10. Henry Gallagher	Henry Gallagher	1940 Pine Ave. Apt 2	N2102127		12/11-11

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Thank you.

Name (print clearly)	Signature	Address	Driver's License Number	Email	Date
1. Bryan Jackson		4338 Faculty Ave			10/10/11
2. TOD DIXON		6477 ATLANTIC LB			12/10/11
3. Jeffrey Shepherd		1272 Cedrick St			12-10-11
4. Juan Vargas		2638 Linden Ave			12/10/11
5. John Blackwell		1152 1st street Long beach Ca 90802	F1802377	Johnbmammoth@Gmail.com	12/10/11
6. Tim Vaughn		1308 E Plymouth St	F3238417		12-10-11
7. Robert Richards		5855 Cherry	A9005617		12-11-11
8. JAIME PARRA JR		6477 Atlantic Ave 5220	B5558341	jbparra9a@yahoo.com	12-11-11
9. Albert Arzaga		2477 Golden Avenue	B4302177		
10. Dante Bade			B6744997		12-11-11

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Thank you.

Name (print clearly)	Signature	Address	Driver's License Number	Email	Date
1. JOE AMADOR	[signature]				
2. Samuel CC	Samuel CC	1028 S Grandee Ave Apt 4	A9411795		12-11-11
3. Dalila S	[signature]	652 E 52nd St LA, CA.			12-11-11
4. Andrea Baca	[signature]			dreaanicole@gmail	
5. Jonathan B.G	[signature]	4727 Walnut Av 90804		SonnBG@gmail	
6. [illegible]	[signature]	2536 [illegible] St		[illegible]@[illegible].com	12-11-11
7. Frank Ronac	[signature]	931 W. cedar st. Compton CA. 90220		Forank@Gmail.com	
8. M. [illegible]	[signature]	POB 41291 LB		[illegible]	12/12/11
9. Kristi Fernandez	[signature]	21730 Coronado Ave Apt #10 long beach	01775555	kristi2116@gmail.com	12/11/11
10. Nishallie Peoples	[signature]	3330 Elm Ave #106 Long Beach		nana.babu354@gmail.com	12/11/2011

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Name (print clearly)	Signature	Address	Driver's License Number	Email	Date
1. Phillip Looman		16511 S. Garfield Paramount CA	D4404454	phillplooman@yahoo.com	12/11/2011
2. Sandra Harvey		4800 Clark Del, LB, CA		shavey1@verizon.com	12/11/2011
3. Jason Burns		1544 Island Ave, CA	B6743037	figuremeatlegal.com	12/11/2011
4. Brian McCord		4483 Atlantic Ave #2 LB	C5446899	none	12/11/2011
5. T'Andre Palmer		2121 Terrabay Lane	E2581562	none	12-11-11
6. Iteana Grenet		8131 Page St. Buena Park 90621	D2443559	cheezter1@gmail.com	12.11.11
7. Joseph Delmae		80 W Plymouth St			12/11/11
8. Jose DelaCruz		35 E 52nd st LB CA 90805		SR0422@GMX.US	12/11/11
9. Tanika Burrell		4082 W. 142nd Hawthorne CA 90250	B7452418	burrell_tanika@yahoo.com	12/11/11
10. Lauren Gandara		1974 Daisy Ave Long Beach 90806	D9336527	luckie_lb@yahoo.com	12/11/11

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Name (print clearly)	Signature	Address	Driver's License Number	Email	Date
1. Kim Rios	Kim Rios	28606 E. 220th Pl	B3473424	love kimmoore@yaho	12/11/11
2. Tawin Russell	Tawin Russell	2535 S. Long Beach Blvd LB 908	N6605689	—	12-9-11
3. Elizabeth Valencia	Elizabeth Valencia	1055 Roma Ave LB 90813	B0232928	evinlb@yahoo.com	12.11.11
4. Melissa Bauman	Melissa Bauman	3420 Gundry Ave., LB 90807	A4615728		12/11/11
5. Robere Kazadi	Robere Kazadi	3420 Gundry Ave LB 90808	C2830446		12/11/11
6. Eileen Delgadillo	Eileen Delgadillo	498 Orange Ave LB 90802	D4979507		12/11/11
7. Norman Young	Norman Young	1975 Pine Ave 90806	B7384915	dorrec3579@yahoo	12/11/11
8. Chad Cravens	Chad Cravens	4804 Rose Ave	A1408751		12-11-11
9. Jose Rodriguez	Jose Rodriguez	7802 ADOREE st	D8791458	jRiddrick@gmail.com	12/12/11
10. Devin Childs	Devin Childs	1025 S. Kemp St. 90220	B8189647		12-12-11

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Thank you.

Name (print clearly)	Signature	Address	Driver's License Number	Email	Date
1.		CARSON, CA			12/10/11
2. NOE CACERES		LONG BEACH, CA			3
3. Makenzie Moore	Makenzie Moore	3839 Gondar Ave. LongBeach		honeykenzie@gmail.com	12/10/11
4. Willie Morris		1416 Orange L. Beach		Willie Morris007@yahoo.com	1270
5. Ivory Morris		1416 Orange L.B			
6. Joseph Acosta		19412 Lusk Ave Cerritos		HAMMERHEADAcosta@yahoo.com	12/10/11
7. DIONE CLINTON		3183 OREGON AVE LB		dclinton1@msn.com	12/10/11
8. David Gonzalez		16406 ½ Cornuta Ave Bellflower			12/12/11
9. Damon Bonner		5463 N. Paramount Blvd.			12/12/11
10. Jonathan Hernandez		922 N. Sloan Ave Compton, CA		Jh_chucky@yahoo.com	12/12/11

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Name (print clearly)	Signature	Address	Driver's License Number	Email	Date
1. Isaac Serrano		1029 Pacific Ave LB, CA	B3097874	isaacs74@aol.com	12/11/11
2. Jose A. Martinez		1805 E POPPY St	D4979560	RJMartinez562@gmail	12/11/11
3. Daryl Villahermosa		12 W 290 St	D1101475	Dvillahermosa@Gmail.com	12/11/11
4. Jonathan Reitz		3721 myrtle ave	07757393	IainJRic890@yahoo.com	12-11-11
5. Roth Moreland		381 E Seventh St.	DG5238820	rothmorland@yahoo.com	12-11-11
6. Jamila Riley		Millerarimore ave #2 Bellflower	DG5635946	mambagirl87@gmail.	12-11-11
7. Christopher Sanchez		5254 Atlantic ave.	D2079400	CSAM254@Email.com	12-12-11
8. Parker Hill		248 GAVIOTA AVE	D9521248	PARKER1288@GMAIL.com	12/12/11
9. Lonnie Washington		6667 Linden Ave	C6333493		12-12-11
10. Kevin Franklin		4020 country Club Drive	DL6238 46	KevinFranklin9319@yahoo	12-12-11

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Name (print clearly)	Signature	Address	Driver's License Number	Email	Date
1. Bermudez Isidro		1047 7ST Apt 7			12/11/11
2. Adam Reveles		4817 Lakewood BLVD	D2972295		12/11/11
3. JERROD TAYLOR		423 E 138 ST LA CA 90061			12-11-11
4. Manuel Gonzalez	Manuel Gonzalez	4262 Linden Ave		Atticusarthur@yahoo	12-11-11
5. Lesly Dashiell		Signal Hill, CA	B8649967	lmdashiell@yahoo	12-11-11
6. Stephanie Bravo		1643 Elm Ave. LB 90802			12-11-11
7. John Thomas III		1042 Luray St.	B5316889	JJBLBC@Gmail.com	12-11
8. JEFF SFreed		POBox3961 RB CA, 90277		JeffreySfreed@aol.com	12-12-11
9. Ravi Moreno		1515 S. Bentley Ave.	DMV	Beyond902202@gmail	12-12-11
10. TERI JOHNSON		2507 E. 15TH ST LB CA	C0892682	compass@yahoo.com	12/12/11

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Name (print clearly)	Signature	Address	Driver's License Number	Email	Date
1. Leon F. Ramirez	[signature]	6626 Gardenia Ave	E1824364		12/9/11
2. [illegible]	[signature]	4247 Mowry		[illegible]	12/9
3. Blaine Kabrud	[signature]	6227 elsa	D9336113		12/9
4. FRANKLIN	[signature]	1845 LOCUST AVE L.B.	D5454612		12/9/11
5. Mark Hodge	[signature]	14523 Flatbush Ave, Norwalk, CA 90650	A5832720	[illegible]	12/9/11
6. Jesus Arroyo	[signature]	4324 boyar Ave LB 90807			12/9/11
7. Brian Gallentine	[signature]	3315 Falcon Ave SH 90755	D3903702	bgallentinesells@gmail.com	12/9/2011
8. Brandon Parker	[signature]	1835 E Gladwick St	D6442506	Blackcorprate@yahoo.com	12/9/2011
9. Sam Jacobs	[signature]	4762 Snowden Ave	F1609562	N/A	12/9/2011
10. Dylan [illegible]	[signature]	2969 Denmead St			12/9/2011

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Name (print clearly)	Signature	Address	Driver's License Number	Email	Date
1. CANDACE BAKER	Candace Baker	3712 Falcon Ave.	30464126		12/9/11
2. Justin Rivera		8602 Rancho Verona Dr	D6898897	jus505@pacbell.net	12-9-11
3. Quinton Price		136 Mountain View	B8698193		12-9-11
4. Andres Acevedo		398 E. 61st Street	D6108529	[illegible]@yahoo.com	12-9-11
5. Richard Banks	Richard Banks	208 E. Artesia Blvd	F1590208	filthyRich@Gmail	12/9/11
6. Agustin Gallardo	A. Gallardo	1927 W. 29 ST	D9333332	AVG1575@Gmail	12/9/11
7. Tina Men		5444 Lime Ave.	D6587936	Tinammen@yahoo.com	12/9/11
8. Sonny Dulce		"	D5320720	DulceSonny@yahoo.com	12/9/11
9. AnnaLisaAngle	AnnaLisaAngle	4023½ Virginia Road	E2820175	annalisaangle@gmail.com	12/9/11
10. MaryAnne Quintana	MaryAnne Quintana	1185 E Carson St #207	A5828688	MZmetalgirl@yahoo	12/9/11

Keep Medical Marijuana Collectives in Long Beach !

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Thank you.

Name (print clearly)	Signature	Address	Driver's License Number	Email	Date
1. Kevin Greer	[signature]	3178 S. Denker Ave	—	—	12/9/11
2. [illegible] Lettoe	[signature]	2223 Anzac Compton ca	D6249114	1td.slip@gmail.com	12/9/11
3. Lynn	[signature]	1016 M.L.K		[illegible]@yahoo.com	12/9/11
4. Brandon Ward	[signature]	22728 Delford Ave			12/9/11
5. Adam Jordan	[signature]	21532 Craig Ct.	D[illegible]5378		12/9/11
6. TRAYVON McL[illegible]	[signature]	1185 E carson st #205	A9017495	Trayvon76@Gmail	12-9-11
7. Brent Tan.	[signature]	3615 Rose Ave	D9340108	BrentTan.26@yahoo.com	12-9-11
8. Jonathan Dumbrique	[signature]	363 Adair		SaGentKillgore@Gmail	
9. Davion	Biddle	508 South Essey St		DBiddle1990@Gmail.com	
10. Michael white	[signature]	4266 E Saunders st	B8190891	[illegible]@Att.net	12-9-11

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Thank you.

Name (print clearly)	Signature	Address	Driver's License Number	Email	Date
1. Anahy Jah		2165 East 65th St	B7646432		12-9-11
2. Kristy Watson		3340 E 61st St	A8465ZB		12-9-11
3. Maylon Brito		4006 E Alondra	I1310881		12-9-11
4. Tyler Applegate		1132 Fisher Ave WMB, CA	A3548063		12-9-11
5. DAVID RODRIGUEZ		2810 SANTEE AVE LB CA	A. B7134332		12/9/11
6. Ben FERNANDEZ		3250 PACIFIC AVE LB CA	D7301398		12/9/11
7. Anthony Palache		6020 Jaymills AVE	E3451621		
8. Jeff Colvin		5254 Atlantic	B4551C		
9. Jermaine Hall		247 Hullett St	B1746600		12/9/11
10. JERRY		451 W. ARBUTUS ST.	D6444244		12/9/11

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Name (print clearly)	Signature	Address	Driver's License Number	Email	Date
1. Marcus Licorse	[illegible]	7749 Lewis Ave	N7326070	None	12-8-11
2. Tracy Johnson	[illegible]	9626 Evers Ave CA	05202768	TJohnson464@Gmail.Com	12-8-11
3. Jesse Hernandez	[illegible]	6549 Johnson Ave.	D5469846	12CMe@Yahoo.Com	12/08/11
4. Russell Price	[illegible]	3640 Webster	B3352661		12/8/11
5. Louis [illegible]	[illegible]	27131 Tosomar	E2747236		12/8/11
6. Joanai Madison	[illegible]	80 W. Trafford St. LBC	D4149805	T-Panties69@hotmail.com	12/8/11
7. Laty Banks	[illegible]	208 E Artesia Ave	B7195232	LatyBanks@yahoo.com	12/8/11
8. Kevin Monroe	[illegible]	7774 Magnolia Ave.	B4874746		12/08/11
9. Pamela Hackley	[illegible]	5293 Orange	N5651961		12-8-11
10. Michael Jacke	[illegible]	121 W. Hillcrest BLVD Apt 11 Ing CA 90301	B8495379		12-8-11

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Thank you.

Name (print clearly)	Signature	Address	Driver's License Number	Email	Date
1. Michael Jackson	[signature]	2407 W. Lincoln AV	C3665059		
2. Shane Roberts	[signature]	3705 Brayton Long Beach	A5825268	Shane.Roberts56@yahoo	12-8-012
3. Carl Rice	[signature]	3302 E 15th St L.B.	N2295529		
4. Heather [illegible]	[signature]	12033 Walnut St Apt 2 Norwalk, CA 90650	B7641139	Irishcream2sexy@gmail	12-8-11
5. Dawn Carter	[signature]	322 W Cedar St	B7084849		12-8-11
6. Henry Donald	[signature]	158 W Scott		Kushonly562@aol	12-8-11
7. Malaysnia Sneed	[signature]	198 W Scott St.	D7071799	ladytayshia@yahoo.com	12/8/11
8. Craig Killen	[signature]	10836 Paramount blvd. Downey	D5036605	craigmkell@yahoo.com	12/8/11
9. Kaitlyn Thompson	[signature]	800 E Pacific		kaitlynsays@gmail	12.8.11
10. R Lowden	[signature]	4531 Falcon	N2023814		12/8/11

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Thank you.

Name (print clearly)	Signature	Address	Driver's License Number	Email	Date
1. Shane Delgadillo	[signature]	698 Orange Ave #117 Long Beach, CA 90802	04429695	shane.delgadillo@yahoo.com	12/08/11
2. Valerie Camacho	[signature]	1776 Warrington St Longbeach CA 90810	B159658	mvioverss@yahoo.com	12/8/11
3. Lamont Kings	[signature]	2181 Eucalyptus Ave	B7647107	lkings_ridikule@yahoo.com	12/9/11
4. Cleo Clinton	[signature]	3251 Artesia Blvd	D6706679	Clease_montano@aol.c[illegible]	12/9/11
5. PHILIP GALAN	[signature]	3401 ADRIATIC AVE	D6725759	YEAHITSPHILIP@YAHOO.COM	12/9/11
6. Art Jose	[signature]	125 E Mountain View	C5592768	[illegible]	12-9-11
7. Shannon Strider	[signature]	1356 E Schirmer	B9118338	ShannonStrider@GMAIL.com	12-9-11
8. FREDERICK CROWE	[signature]	3306 Pacific Ave	T6543790	big-d334@yahoo.com	12-9-11
9. Steven Sisu	[signature]	4503 ATLANTIC AVE		Imma Hawl Lyw @yahoo	12/8/11
10. Marcus Randall	[signature]	1920 W 11th william Av			12/8/11

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Name (print clearly)	Signature	Address	Driver's License Number	Email	Date
1. Tammy Mefford	Tammy Mefford	5049 Hayter Ave Lkwd 90712	N7110696	acostatt@yahoo.com	12-8-11
2. Jonathan Acosta	Jonathan Acosta	5049 Hayter Ave Lkwd 90712	E2175261	acosta53@yahoo.com	12-8-11
3. Calvin Medford	Calvin M.	5254 Pageantry St	E275 8336	3uffioCal09@Gmail.com	12-8-11
4. Max Taylor	M. Taylor	3120 Charlemagne	F2952319	macmoe@gmail.com	12-8-11
5. John Moore	J. Moore	19213 Radlett Ave Carson	B8689493		12/8/11
6. Jonathon Thomas	Jonathon Thomas	2390 Cedar Ave #302	D3432610	Scrapsster1983 at yahoo	12-8-11
7. Sarah Roth	[illegible]	2831 Lomina Ave LB, CA 90815	D2291257	littlerothgirl@yahoo.com	12/8/11
8. Jose Sierra	[illegible]	15402 White Ave Compton CA 90221	D2900796		12/8/11
9. Michael Rhodes	Michael Rhodes	1054 Ridgewood St Long Beach CA 90807	D9333093	Lilil3@gmail.com	12/8/11
10. Guadalupe Lozano	Guadalupe Lozano	308 E Morningside St	F1773006		12/8/11

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Name (print clearly)	Signature	Address	Driver's License Number	Email	Date
1. Griselda Bernardino	[illegible]	9239 Mayne	D3545914		12-8-11
2. Mario Ordorica	Mario Ordorica	15112 S. Lime Ave	D7249579		
3. SEAN HADDEN	[illegible]	2920 KNOXVILLE AVE	D6093016		12-8-11
4. William Vontimiglia	William Vontimiglia	1739 [illegible]	F2570727		12-8-11
5. Joi Montgomery	[illegible]	6959 Orcutt Ave #5	N877979		12-8-11
6. Sherrell Montgomery	[illegible]	6959 Orcutt #6	D6302546		12-8-11
7. [illegible]	[illegible]	7809 Woodruff ave	U5834503		12-8-11
8. KEVIN CARIAS	[illegible]	45 E. 55th st #11	F2013037		12/8/11
9. BRIAN Rodriguez	[illegible]	4952 [illegible] #102 90805	D6517990		12/8/11
10. JOCK THAN	[illegible]	207 E. [illegible] st	C3485466		12-18-11

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Name (print clearly)	Signature	Address	Driver's License Number	Email	Date
1. Travon Jones	Travon Jones	1185 S. Carson St #205	B8647796	Jones.Travon@ymail.com	12/08/2011
2. Shon D. Thu	[illegible]	4800 Clairedale	B8800048	Shin_2r2l.	12/8/2011
3. Melissa Quinones	Melissa Quinones	1008 E 32nd St #D Signal Hill CA	B9120114	qmelissa79@yahoo.com	12/8/11
4. Omar Dudley	Omar Dudley	1428 - Gundry	E309123	Omar.Omar.94yahoo	12/8/11
5. Dominik Watkins	Dominik Watkins	173 East 69th Street		Dominik watkins@yahoo.com	12/8/11
6. Jonathan Gordon	Jonathan Gordon	16325 S. Thoreson Ave	E2263715		12/8/11
7. Velasquez	[illegible]	4186 Elm Ave	B8199565		12-8-11
8. DeSean Bailey	[illegible]	1981 Linwood		seanb1210@gmail.com	12/8/11
9. Raymore Molina	Raymore J. Molina	1100 N. Culver Ave.	D6520050		12/8/11
10. Terence Shar	[illegible]	18162 PO Box LB	N9450225	TOPDOGLBC@Gmail	12-8-11

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Name (print clearly)	Signature	Address	Driver's License Number	Email	Date
1. Lizet Bravo	[signature]	431 e. Proctor St Wilmington	D1803903	lizetb1983@hotmail.com	12/8/11
2. Felix Alvarado	[signature]	2268 Delta ave LB	F2506344		12/8/11
3. [illegible]	[signature]	11800 S Antwerp	D0245548	[illegible] Hotmail	12 8 11
4. Noe Morales	[signature]	1033 E Harding st	E1206216	a	12/8/11
5. Cory Ramirez	[signature]	2512 Gundry Ave	D9334139	Cory5@gmail.com	12/8/11
6. [illegible]	[signature]	432 Roldart			
7. [illegible] Moore	[signature]	1645 W 8 Ave			
8. Elizabeth Signarelli	[signature]	415 E Home St 90805	C0681537	Lzilel@aol.com	12/8/11
9. Larry Chat	[signature]	811 E 71st Long Beach CA	D6217056		12/8/11
10. Latasha Alford	[signature]	6057 California Ave LB 90805	B7502347	Softspoken90805@yahoo.com	12/8/11

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Name (print clearly)	Signature	Address	Driver's License Number	Email	Date
1. Brian Jackson	Brian Jackson	2051 Lime Ave Apt. 1 90806	A6251649		12/09/11
2. Audrea Reeves	Audrea Reeves	1032 Silva	D232316		
3. Rob Lauder	Rob Lauder	4631 Falcon Ave	D7322291	Robslauder13@aol.com	12/08/11
4. J Clement	J Clement	269 Plenty St L.B	A1088679		12/8/11
5. Prince Smyth	[illegible]	580 E Burnett Ave LB Ca 90806	D2533058		12-8-11
6. Sakeya Ford	Sakeya Ford	2193 Elm Ave #4 LBCA	B5356055		12/8/11
7. Miguel Biviano	Miguel Biviano	2641 E Washington St	D5300750	mbiviano2491@yahoo.com	12/8/2011
8. Tori Perry	Tori Perry	1028 Donwall Dr.			12/8/11
9. Lott Dashan	Dashan Lott	442 E Sunset	B7370599		12/8/11
10. Rathana Ly	[illegible]	6119 Linden Ave	D1362357	rathanaly24@hotmail.com	12-8-11

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Thank you.

Name (print clearly)	Signature	Address	Driver's License Number	Email	Date
1. Steve Palacios	[signature]	93 w Arbor st LB 90805	E2323893	FunkMaster[illegible]	12-8-11
2. Daniel Coronado	[signature]	2361 Elm st LB 90803	D6177180	UNPLUGGEDMIND[illegible]	12/8/11
3. Steven D. Phelps	[signature]	4434 Linden Ave. Apt #2	E1407952	Jodiiebreeze@gmail.com	12/8/11
4. Ron Kirklen	[signature]	215 E 36th St	M0329291	KIRKKLEEN@CHART[illegible]	12.8
5. Jazmin Torres	[signature]	527 W 3rd St Long Beach	D7114386	Jazmin_crystal_torres@yahoo.com	12/9/11
6. Raymond Cano	[signature]	219 E. 49th St. #2	D5703190	longbeach_poet_005@hotmail.com	12/9/11
7. David Pugh	[signature]	5055 Damer St. Long Beach, CA	F1160696	pelswick93@yahoo.com	12/9/11
8. Jacqueline [illegible]	[signature]	1119 St Louis Ave	C1483611	[illegible]@[illegible]	12/9/11
9. Donald Green	[signature]	3295 Park Lane	C0321701		12-9-11
10. Erasmo Razo	[signature]	erasmorazo@gmail.com	B9900054	6850 Beechley Ave LB CA 90805	12-9-11

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Thank you.

Name (print clearly)	Signature	Address	Driver's License Number	Email	Date
1. Matthew Lester	[signature]	5703 E. Oakbrook St. Long Beach	D8052911		12/8/11
2. Jose Sandoval	[signature]	3595 Santa Fe Ave			12/8/11
3. Marlon Brace	[signature]	2745 Chestnut Ave.		MrPerfect8point50@att.com	
4. Jose Bonilla	[signature]	2030 Linden Ave LB 90806	D6728369		12/8/11
5. Bryan Barrera	[signature]	1560 Locust Ave LB 90806	E1546315	Bryanbarrera786@hotmail.com	12/8/11
6. Jennifer Guarcano	[signature]	5802 Verdun Ave Lkwd 90712	A4058073		12/8/11
7. Ron Burries	[signature]	1240 E. San Antonio.		P indiuniports8@gmail	
8. Lowell D. Moore	[signature]	47 W. Mountain View, LB	C0393480		12-8-11
9. Gwen Courtney	[signature]	416 S. Clymar Ave	N4558988	gmcowcus@aol.com	12-9-11
10. Javier Santiago	[signature]	2808 Dashwood st	E3824931		12-9-11

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Name (print clearly)	Signature	Address	Driver's License Number	Email	Date
1. Antonio Cullens		3362 Delta Ave.			12/8/11
2. Sarith		12114 214th St Hawaiian Gardens Ca 90716			12/8/11
3. AIRRICKIA WILSON		3252 EUCLID AVE		LBNKIDD87@GMAIL	12/8/11
4. [illegible]		440 E 16th St Long Bch, 90813		[illegible]@yahoo.com	12/8/11
5. Michael Jurado		247 E 55th Long Beach 90805	D9262940		12/8/11
6. Michael Dunnigan		247 h E 55th St Long Beach, CA	90805 D4141800		12/8/11
7. Mack Thomas		2627 Hardwick Long Beach CA	90712	LBMacko@Yahoo.com	12/8/11
8. Ravi Chavez		3647 SANTA FE AV LB CA	D9335721	RAICIBCT@HOTMAIL	
9. James Gomez		2605 Linden Ave		JGomez22@Gmail.com	12/8/11
10. Andres Ramirez		482 55th St Long Beach.			12/8/11

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Name (print clearly)	Signature	Address	Driver's License Number	Email	Date
1. Elizabeth Quintana	[signature]	1185 E. Carson St #202 Long beach 908[illegible]	D934[illegible]142	[illegible]@yahoo.com	12/9/11
2. Damon Hoggan	[signature]	4700 Clair Del Ave Apt [illegible]	E2535208	Damon.hoggan[illegible]@yahoo	12/9/11
3. Circe Gabriel	[signature]	1455 Lemon Ave	C5708897		12/9/11
4. Caleb Stephenson	[signature]	9533 Flower St #37 90706	F1464232	[illegible]@yahoo.com	12/9/11
5. Kenae Shamacker	[signature]	1421 E New Hampshire Ave 9[illegible]		kenae93@gmail.com	12/9/11
6. Chris Maines	[signature]	4815 Faculty Ave 90808	B9235471	Pookwoodxps@Aol	12/9/11
7. Kalvin Riley	[signature]	1215 E Washington St	D7299184	Kalvin158@gmail.com	12/9/11
8. Bryan Jenkins	[signature]	2422 W Deeve St Apt 9[illegible]	N7117183		12/9/11
9. Adam Evans	[signature]	2208 Iroquois Ave 90815	D174150		12/9/11
10. Andrew Newman	[signature]	3344 Clark St.	E3305827		12/9/11

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Name (print clearly)	Signature	Address	Driver's License Number	Email	Date
1. Dominick Boozer	Dominick Boozer	11324 E 215 Lakewood CA 90715 apt #5	D6446635	DOMINICKBOOZER@yahoo.com	12/9/11
2. [illegible] Gaston	C. GASTON	P.O. Box 991 Brea CA 92822	D-7512518	CHRISTINAXOXO20@yahoo	12/9/11
3. Ramon Macias	[signature]	16610 Vermont Ave	E2530941	~~RMACIAS@yahoo~~	12/9/11
4. Raymond Saucedo	[signature]	561 Pleasant St Apt 3		Saucedo_Ray2@yahoo.com	12/9/11
5. [illegible]	[signature]	2131 EARL LBC 90806		SGLMAJERA@GMAIL.COM	DEC 10/11
6. Miguel Avila	[signature]	2131 Earl Ave Long Beach		CRUEMAN18GREEN@yahoo.com	12/10/11
7. Vanessa Arce	Vanessa Arce	3553 atlantic ave		nessiebe@yahoo.com	12/9/11
8. [illegible]	[signature]	1435 MYRTLE AVE APT. A.			12/9/11
9. Ryan Fox	[signature]	1840 Tulane Ave LBCA 90815	B8546070	ryanfox@MAC.COM	12/9/11
10. Justin Anderson	[signature]	3164 Heather Rd.		afandkson@live.com	12/9/11

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Name (print clearly)	Signature	Address	Driver's License Number	Email	Date
1. Efren Olivera	[signature]	1910 Roger	D9341599	eJunior91@yah.60om	
2. D'Andre Jackson	[signature]	1114 S. Amantha	E3299378	Jack6274@gmaIL.com	
3. Kevin Logan	[signature]	1339 w 93 street	01912179	YomanKantkd@gmaL	
4. Lisa Hamilton	[signature]	321 w magnolia st #B	A5572945	Hamiltonlisa37@yahoo.com	
5. [illegible]	[signature]	356 West 21 [illegible]	BSS8974	[illegible]@yahoo.com	
6. Rudy Toledo	[signature]	1010 [illegible] st LB, CA	D7303474		12-9-11
7. Jynee Wheat	[signature]	966 Via carmelitas	B4795918		12-9-11
8. Juan Romero	[signature]	6566 Hammond Ave.	D4339310	Oitay112@yahoo.com	12-9-11
9. Lumina Salinas	[signature]	2938 Deerford St. 90712		DankNDiamonds@gmail	12/9/11
10. Michael Bravo	[signature]	521 W 34th ST. L.B. 90806	D2471382	Beeoitea@gmail.com	12/9/11

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Name (print clearly)	Signature	Address	Driver's License Number	Email	Date
1. Connie Gutierrez		15112 S. Lime Ave	D6914713	1985CFG@gmail.com	12/10/11
2. Yanea Williams		5909 Lewis Ave	D3920982	Yaneawilliams@gmail	12/10/11
3. Mike Ripper		5558 Lime Ave.	B9630 471	mikeripper45@gmail	12/10/11
4. Mysha Cole		5494 Linden Ave	A9577658	Lacay.Colea@att.com	12/10/11
5. Cyreeta Williams		19603 Fairman DR	B7369986	Cyreeta05@ymail.com	12/10/11
6. César Soto		632 W 32nd St, San Pedro, CA	D1970091	dirtclot@sbcglobal.net	12/10/11
7. Marcus Woodard		4716 Olanda St Lynwood CA	D1671104		12/10/11
8. Anietra K. Walker		1017 Raymond Ave. LB, CA 90804	B8159844	akdubb75@gmail.com	12/10/11
9.					
10.					

Keep Medical Marijuana Collectives in Long Beach !

Long Beach City Council is proposing a city-wide ban on medical marijuana collectives. If this proposal is passed, all collectives in Long Beach will have to close their doors on Wednesday, December 14, 2011, forcing patients to get the medicine they may desperately need elsewhere.

We, the undersigned, are formally protesting this city-wide ban on medical marijuana collectives.

Thank you.

Name (print clearly)	Signature	Address	Driver's License Number	Email	Date
1. Matthew Smallwood	[signature]	1513 E Artesia #12	D4850980	mruster169@yahoo.com	12-9-11
2. Roderick Smith	[signature]	3528 California St	C3093692		12-9-11
3. Ky Garcia	[signature]	4600 Clair Del Ave	E7323535		12-9-11
4. WENDY LOVE	[signature]	217 E Burnett St	A6944653		12-9-11
5. SHOCKER SISSON	[signature]	217 E Burnett St	A747212		12/9/11
6. Brent Collie	[signature]	2321 Santa Fe			
7. Aneia Laibson	[signature]	564 N. Bellflower Blvd. #200	D2699645	sparielа@aol.com	12/9/11
8. Priscilla Tirado	[signature]	3565 Linden Ave #244	D2668444	prettygtaken@yahoo.com	12.9.11
9. Chris Robolo	[signature]	3299 Lewis Ave	D9029686		12/9/11
10. Don Holloway	[signature]	643 Haynes Lane	N/A		

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Name (print clearly)	Signature	Address	Driver's License Number	Email	Date
1. David Greenhagen	[illegible]	2166 Chestnut Ave	C2151892	Dave@aandveng.com	12-9-2011
2. SEAN D. Whittingham	[illegible]	550 Orange Ave Apt 428	D7311822	SEANwhittingham@yahoo	12/9/2011
3. [illegible]	[illegible]	6134 [illegible] Ave	B 8435812		12-9-11
4. David Holland JR	[illegible]	8532 Flower St Apt C Paramount, CA	F1912637	Jedpoth@yahoo.com	12/9/11
5. Oscar Perez	[illegible]	15512 S. Caress Ave	NC665821		12-9-11
6. Will Mochidome	Will Mochidome	4284 Pepperwood		Bigudbillis@Gmail.com	12-9-11
7. Javier Gonzalez	[illegible]	1822 E 56th st	F2601105		12-9-11
8. Dionicio Gonzalez	[illegible]	1083 Olive Ave Long Beach	D7323078	DGonz809@Gmail.com	12-9-11
9. Hugo Carrillo	[illegible]	5555 Cherry Ave LB, CA	D1953516	Limoney16@gmail	12-9-11
10. Jessica Sawyer	[illegible]	6956 Seaborn St	D1969876	anewfoundjess@gmail.com	12/09/11

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Name (print clearly)	Signature	Address	Driver's License Number	Email	Date
1. Matthew Sanger		720 E. Armando Dr.	E2620760	mattsanger2@gmail.com	12/9/11
2. Josh Bakalar		4538 Ostrom Ave	D9338142	Motox Brat-9@yahoo	12-9-11
3. M. Azuma		3150 Heather	E1339655		
4. R. Kaufman		509 E. 17th St Long Beach		Kcaufman@yahoo.com	12.9.11
5. Victor Garibay		3429 California ave. LB 90807	B7159033	vicgaribay@ymail.com	12/9/11
6. Juan Carlos		17701 Avalon Blvd. #30	D6442220	juangcarlos4040@yahoo.com	12-9-11
7. Yogi Patel		1400 atlantic ave #7	D5891942	yogi125@gmail.com	12-9-11
8. Diego Romero		420 ATLANTIC AVE long beach	F1693674	Oriv2@yahoo.com	
9. RAMON ESCOBAR		305 E. Bort St Long Beach			12-9-11
10. JOE REGO		1009 E 45th 90814		JOE@ AOL.com	12-9-11

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Name (print clearly)	Signature	Address	Driver's License Number	Email	Date
1. Myesha Farmer	Myesha Cole	5494 Linden Ave LB 90805	A9877658	Lawaycole@gmail.com	12/9/11
2. Juan J Sanchez		219 E 49th St Apt / LB 90805	D6432222		12-9-11
3. Parker Cook	Parker Cook	4644 Ruth Avenue LB 90805	E3737470	PKfromdaBK@gmail.com	12/9/11
4. Aston Boutelle	Aston Boutelle	4244 Lakewood Blvd LB 90808	B7310420	AstonBoutelle@yahoo.com	12/9/11
5. Amy Welch	A. Welch	4541 Tobert Ave, LB 90807	D3424878	thats_rad_welch@sbcglobal.com	12/9/11
6. EISHA JONES	E Jones	5555 LONG BEACH BLVD	C2870681	LEELEE2good@VZW.BLACKBERRY.NET	12/9/11
7 Mike Anderson		5209 E. Mill Blvd.	B4806911		12/9/11
8. Jesus Pena		991 E Via Worda	E2106827	pena.jesus36@yahoo.com	12/9/11
9. Kyle Sellers	Kyle Sellers	5890 Myrtle Avenue	F1269017	Ksellers84@gmail.com	12/9/11
10. Adam Rogers	Adam Rogers	404 E. Freeland #2	D7323615	adamrogers110188@yahoo.com	12/9/11

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Name (print clearly)	Signature	Address	Driver's License Number	Email	Date
1. Victor Falcon	Victor Falcon	283[illegible] Pleasant Ct.		[illegible]@yahoo.com	12/9/11
2. Christina Evans	Chris Evans	852 Vanderbilt lane #3	D9033477	freshproud@yahoo.com	12-9-11
3. RODNEY HAYES	Rodney Hayes	1512 S. Mayo Ave Compton 90221	C3649167		12-9-11
4. Becky Stafford	Becky Stafford	8519 Rose St.	D1029005	nssboss@yahoo.com	12-9-11
5. SUSAN WESTBROOK	Susan Westbrook	3652 GUNDRY LB 90807	N6005443	GINGERFLY7@YAHOO	12-9-11
6. Jose Torres	[illegible]	14320 S Atlantic Ave	D7299452	chubzer89@yahoo.com	12-9-11
7. Paul Griffin	[illegible]	1320 Temple compton	A4630688		12-9-11
8. [illegible]	[illegible]	5330 canehill ave	D9339530		12-9-11
9. JOSE ORTIZ	[illegible]	5841 LINDEN AVE.			12-9-11
10. Angel Sanchez	[illegible]	2501 olive Ave	D9339645	Sanchez_562@Hotmail.com	12-9-11

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Name (print clearly)	Signature	Address	Driver's License Number	Email	Date
1. Jose Ortiz		5580 Dairy Ave	D1608381	Josty1sta@gmail.ca	12/9/11
2. Chris Majiw		3932 Linden ave	C3300772	MAjiw2002@[illegible]	12-9-11
3. Gabriel Galleg		140 E Del Amo Blvd.	D8411505	23YELLOWBIKE@GMAIL.COM	12-9-11
4. Andrew Perez		2915 Martin St	E2103630	Nrdriven6975@yahoo.com	12-9-11
5. Timothy Guerrero		3455 ELM Ave	D8411428	timdime143@yahoo.com	12-9-11
6. Justin Bradley		2006 N. Castlegate	D7821828	[illegible]	12-9-11
7. Patrick Valdez		3037 Maine Ave	D7325221	PatrickValdez@gmail.com	12-9-11
8. D. Gant		102 E. Raymond St	B8192085		12-9-11
9. Shonell Scott		1337 E 56th St	B9401007		12-9-11
10. Darren Gilman		22330 Meylor	N7223538	DG1122@aol.com	12-9-11

City of Long Beach
Working Together to Serve

Office of the City Attorney

Memorandum

DATE: January 3, 2012

TO: Mayor and Members of the City Council

FROM: Robert E. Shannon, City Attorney RES

SUBJECT: Ordinance Banning Medical Marijuana

At its meeting on December 13, 2011, the City Council directed that the recommendation of the City Attorney to approve an Ordinance banning Medical Marijuana dispensaries be laid over to January 10, 2012.

Thereafter, the hearing on the City's Downtown Plan was placed on the January 10 agenda and will be very time consuming.

Further, Chief McDonnell has expressed a desire to be present and, if necessary to comment during deliberations, but will not be able to attend the January 10 meeting.

Therefore, it is requested that this item be continued to January 17, 2012.

RES:kdh
#A11-03179

cc: Patrick West, City Manager
Suzanne Frick, Assistant City Manager
Jim McDonnell, Chief of Police
Larry Herrera, City Clerk

MATTHEW S. PAPPAS
ATTORNEY

22641 LAKE FOREST DRIVE, #107
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LOS ANGELES COUNTY OFFICE:
4340 ATLANTIC AVENUE
LONG BEACH, CA 90807

December 29, 2011

PRESS RELEASE

For Immediate Release

Long Beach, CA - December 29, 2011 – *Patients First*, a non-profit part of *Citizens for the Fair Treatment of the Disabled*, and *Long Beach Collective Association* have agreed in principle to form an alliance to cooperate in the effort to ensure medical marijuana patients have access to medication through the collective/cooperative process provided for in California.

Attorney Richard Brizendine, counsel for the *Long Beach Collective Association*, and attorney Matthew Pappas, interim spokesman for *Patients First* and the attorney representing the patients in *Pack v. City of Long Beach*, met on Monday, December 26, 2011. Thereafter, the groups agreed to form an alliance that addresses a "ban" of all collectives that has been proposed by the City of Long Beach as well as legislative issues related to medical cannabis.

"Thousands of patients – including patients with cancer, AIDS, renal failure, and other serious illnesses and disabilities – would be adversely affected by a ban. I am pleased that *Long Beach Collective Association* and *Patients First* have decided to form an alliance that can work together to address common issues like the proposed 'ban' and future legislation," Pappas said.

A recent letter from state Attorney General Kamala Harris stresses the importance California voters have placed on having medical cannabis available for patients. In her letter, she addresses city "bans" of collectives and urges leaders in the state legislature to consider laws and regulations that will ensure medication is available for patients in conformance with the voter's *Compassionate Use Act* passed in 1996. Leaders of the *Long Beach Collective Association* and *Patients First* believe that city officials in Long Beach should follow the urgings of the state's Attorney General and consider

legislation that is appropriate given her findings and urgings regarding patients and their medication access.

Leaders of both *Long Beach Collective Association* and *Patients First* plan to meet sometime next week to discuss the important needs of patients as well as legislation that balances the important health, safety, and welfare concerns of all Long Beach citizens.

ATTACHMENTS:

1. ***Copy of Letter from Kamala Harris to state Legislative leaders;***
2. ***Letter from Matthew Pappas to Kamala Harris dated December 23, 2011.***

CONTACT INFORMATION:

For more information, please contact Richard Brizendine of the Long Beach Collective Association, Katherine Aldrich of Patients First, Carl Kemp of the Long Beach Collective Association* or *Lambert Aduki of Patients First.

Victoria S. Pappas
Legal Assistant/Office Mgr.

VSP:jm

encl.

STATE OF CALIFORNIA

OFFICE OF THE ATTORNEY GENERAL

KAMALA D. HARRIS
ATTORNEY GENERAL

December 21, 2011

The Honorable Darrell Steinberg
President Pro-Tempore
State Capitol, Room 205
Sacramento, CA 95814

The Honorable John A. Perez
Speaker of the Assembly
State Capitol
P.O. Box 942849
Sacramento, CA 94249-0046

Re: Medical Marijuana Legislation

Dear President Pro-Tempore Steinberg and Speaker Perez:

As the state's chief law enforcement official, I am troubled by the exploitation of California's medical marijuana laws by gangs, criminal enterprises and others. My Office recently concluded a long series of meetings with representatives across the state from law enforcement, cities, counties, and the patient and civil rights communities. The primary purpose of the meetings was to assess whether we could clarify the medical marijuana guidelines that my predecessor published in 2008 in order to stop the abuses. These conversations, and the recent unilateral federal enforcement actions, reaffirmed that the facts today are far more complicated than was the case in 2008. I have come to recognize that non-binding guidelines will not solve our problems – state law itself needs to be reformed, simplified, and improved to better explain to law enforcement and patients alike how, when, and where individuals may cultivate and obtain physician-recommended marijuana. In short, it is time for real solutions, not half-measures.

I am writing to identify some unsettled questions of law and policy in the areas of cultivation and distribution of physician-recommended marijuana that I believe are suitable for legislative treatment. Before I get into the substance, however, I want to highlight two important legal boundaries to keep in mind when drafting legislation.

First, the Court of Appeal for the Second Appellate District recently ruled in *Pack v. Superior Court* (2011) 199 Cal.App.4th 1070 that state and local laws which license the large-scale cultivation and manufacture of marijuana stand as an obstacle to federal enforcement efforts and are therefore preempted by the federal Controlled Substances Act. Although the parties involved in that case have sought review of the decision in the California Supreme Court, for now it is binding law. As mentioned below, the decision in *Pack* may limit the ways in which the State can regulate dispensaries and related activities.

Second, because the Compassionate Use Act (Proposition 215) was adopted as an initiative statute, legislative efforts to address some of the issues surrounding medical marijuana might be limited by article II, section 10(c) of the Constitution, which generally prohibits the Legislature from amending initiatives, or changing their scope or effect, without voter approval. In simple terms, this means that the core right of qualified patients to cultivate and possess marijuana cannot be abridged. But, as long as new laws do not "undo what the people have done" through Proposition 215, we believe that the Legislature remains free to address many issues, including dispensaries, collective cultivation, zoning, and other issues of concern to cities and counties unrelated to the core rights created in the Compassionate Use Act.

With this context, the following are significant issues that I believe require clarification in statute in order to provide certainty in the law:

(1) Defining the contours of the right to collective and cooperative cultivation

Section 11362.775 of the Health and Safety Code recognized a group cultivation right and is the source of what have come to be known as "dispensaries." It provides, in full:

> Qualified patients, persons with valid identification cards, and the designated primary caregivers of qualified patients and persons with identification cards, who associate within the State of California in order collectively or cooperatively to cultivate marijuana for medical purposes, shall not solely on the basis of that fact be subject to state criminal sanctions under Section 11357, 11358, 11359, 11360, 11366, 11366.5, or 11570.

There are significant unresolved legal questions regarding the meaning of this statute. Strict constructionists argue that the plain wording of the law only provides immunity to prosecution for those who "associate" in order to "collectively or cooperatively . . . cultivate" marijuana, and that any interpretation under which group members are not involved in physical cultivation is too broad. Others read section 11362.775 expansively to permit large-scale cultivation and transportation of marijuana, memberships in multiple collectives, and the sale of marijuana through dispensaries. These divergent viewpoints highlight the statute's ambiguity. Without a substantive change to existing law, these irreconcilable interpretations of the law, and the resulting uncertainty for law enforcement and seriously ill patients, will persist. By articulating the scope of the collective and cooperative cultivation right, the Legislature will help law enforcement and others ensure lawful, consistent and safe access to medical marijuana.

(2) Dispensaries

The term "dispensary" is not found in Proposition 215 and is not defined in the Medical Marijuana Program Act. It generally refers to any group that is "dispensing," or distributing, medical marijuana grown by one or more of its members to other members of the enterprise through a commercial storefront.

Many city, county, and law enforcement leaders have told us they are concerned about the proliferation of dispensaries, both storefront and mobile, and the impact they can have on public safety and quality of life. Rather than confront these difficult issues, many cities are opting to simply ban dispensaries, which has obvious impacts on the availability of medicine to patients in those communities. Here, the Legislature could weigh in with rules about hours, locations, audits, security, employee background checks, zoning, compensation, and whether sales of marijuana are permissible.

As noted, however, the *Pack* decision suggests that if the State goes too far in regulating medical marijuana enterprises (by permitting them, requiring license or registration fees, or calling for mandatory testing of marijuana), the law might be preempted by the Controlled Substances Act. We also cannot predict how the federal government will react to legislation regulating (and thus allowing) large scale medical marijuana cultivation and distribution. However, the California-based United States Attorneys have stated (paraphrase Cole memo re: hands off approach to those clearly complying with relevant state medical marijuana laws).

(3) Non-Profit Operation

Nothing in Proposition 215 or the Medical Marijuana Program Act authorizes any individual or group to cultivate or distribute marijuana for profit. Thus, distribution and sales for profit of marijuana – medical or otherwise – are criminal under California law. It would be helpful if the Legislature could clarify what it means for a collective or cooperative to operate as a "non-profit."

The issues here are defining the term "profit" and determining what costs are reasonable for a collective or cooperative to incur. This is linked to the issue of what compensation paid by a collective or cooperative to members who perform work for the enterprise is reasonable.

(4) Edible medical marijuana products

Many medical marijuana collectives, cooperatives, and dispensaries offer food products to their members that contain marijuana or marijuana derivatives such as cannabis oils or THC. These edible cannabis products, which include cookies, brownies, butter, candy, ice cream, and cupcakes, are not monitored or regulated by state and local health authorities like commercially-distributed food products or pharmaceuticals, nor can they be given their drug content. Likewise, there presently are no standards for THC dosage in edible products.

Commercial enterprises that manufacture and distribute marijuana edibles and candy do not fit any recognized model of collective or cooperative cultivation and under current law may be engaged in the illegal sale and distribution of marijuana. Clarity must be brought to the law in order to protect the health and safety of patients who presently cannot be sure whether the edibles they are consuming were manufactured in a safe manner.

I hope that the foregoing suggestions are helpful to you in crafting legislation. California law places a premium on patients' rights to access marijuana for medical use. In any legislative action that is taken, the voters' decision to allow physicians to recommend marijuana to treat seriously ill individuals must be respected.

Please do not hesitate to contact me if you have questions or concerns.

Sincerely,

KAMALA D. HARRIS
Attorney General

cc: The Honorable Mark Leno
The Honorable Tom Ammiano

MATTHEW S. PAPPAS
ATTORNEY

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LOS ANGELES COUNTY OFFICE:
4340 ATLANTIC AVENUE
LONG BEACH, CA 90807

December 23, 2011

VIA U.S. MAIL

Ms. Kamala D. Harris
Attorney General
State of California
1300 I Street, Suite 1740
Sacramento, CA 95814

Re: *Pack v. Superior Court* (2011) 199 Cal.App.4th 1070

Dear Ms. Harris:

I am the attorney representing the patients in the above referenced case. I am in receipt of your letter to members of the state Legislature dated December 21, 2011 regarding medical marijuana in California.

Anthony Gayle is one of the patients in the *Pack* case. He is 25 years old. He suffers from renal failure. He's had heart surgery to replace a part of his heart. Mr. Gayle must have kidney dialysis three (3) times per week. He is likely terminal. Dangerous and addictive opiate drugs like Vicodin and Oxycontin have been contraindicated given his condition.

In the underlying *Pack* case, Mr. Gayle, along with patient Ryan Pack, who was permanently and seriously injured after being hit by a vehicle while riding a bicycle, applied to the trial court for a preliminary injunction.

Long Beach enacted Chapter 5.87 of its municipal code in March, 2010. I have included video excerpts from a City Council meeting held that date. In the video, you will see that city council members were confused by a presentation made by the Los Angeles District Attorney's office. Apparently, the District Attorney felt it necessary to confuse council members based on his staunch opposition to patient rights. It appears he either willfully withheld information regarding the provisions of Ca. Health & Safety Code § 11362.775 or simply failed to read that state law before discussing transportation.

In the video excerpts, you will notice that the members of the council are clearly confused about the transportation issue during the meeting.

Chapter 5.87 was **not** enacted for the benefit of the "all seriously ill Californians" in need of medical cannabis the voters of California considered when they enacted the *Compassionate Use Act* in 1996. As then councilwoman Tonia Reyes-Uranga stated on the record during the March 16, 2010 meeting, Chapter 5.87 is "pretty much a sham" that was designed to take away medication access for patients like Ryan Pack and Anthony Gayle.

On October 6, 2010, patients Pack and Gayle argued before the trial court in the underlying case that a preliminary injunction should issue barring the City from enforcing Chapter 5.87 because the enforcement of that law would result in their inability to access collectives. Dealing with serious medical conditions and life issues, Pack and Gayle access medication through collectives established under and operating pursuant to the *Medical Marijuana Program Act* and 2008 Attorney General guidelines governing the *Safety and Non-Diversion of Marijuana Used for Medical Purposes*.

As you know, injunctive relief is extraordinary in nature and requires the court to assess probability of success on the merits, irreparable harm, and balance respective hardships. On November 2, 2010, although finding Chapter 5.87 was "motivated by sentiments contrary to" and "inconsistent with" the *Compassionate Use Act* and *Medical Marijuana Program Act*, the trial court declined to issue the requested preliminary injunction. Thereafter, the patients petitioned the Second District California Court of Appeal for a peremptory *writ of mandamus* or for an *alternative writ*. The appellate court granted the *alternative writ* and ordered the parties to show cause.

On October 4, 2011, after extensive briefing by the parties and by *amici curiae* including the *American Civil Liberties Union*, the *ACLU of Southern California*, the *ACLU of Northern California*, the *ACLU of San Diego and Imperial Counties*, *Americans for Safe Access*, the *National Drug Policy Alliance*, the *City of Los Angeles*, the *League of California Cities*, and the *Association of California Counties*, the appellate court **granted the petition for *writ of mandamus*.**

When it granted the patients' Petition, the court said there was a "100%" chance the injunction should have been issued by the trial court. The **irreparable harm** claimed by the patients was their **inability to access medication through the collective and cooperative system provided for in the *MMPA* because enforcement of Chapter 5.87 would lead to closure of their respective collectives**. Yet, days after the *Pack* decision, in a retaliatory manner and with the same "sentiments contrary to" the *CUA* and *MMPA*

referred to by the trial court in its November 2, 2010 order, City Attorney Robert Shannon **told the Long Beach City Council it must ban all collectives.**

Mr. Shannon and the Los Angeles District Attorney are violating state law. They are violating the state's *Compassionate Use Act* and the *Medical Marijuana Program Act.* On December 13, 2011, Mr. Shannon publically represented in a Long Beach City Council meeting that the *Pack* case **required** the Long Beach City Council to **ban** all patient collectives. He did not say a "moratorium" was appropriate, but instead said a **ban** was **absolutely necessary**. Mr. Shannon's presentation was **recorded on video** and is now available on the longbeach.gov Website. He misrepresented what the *Pack* decision means.

After the appellate court ordered the parties to show cause in *Pack* back in November, 2010, the City of Long Beach engaged in abhorrent conduct aimed at attacking, harassing, and arresting patients. I'll just provide one (1) example of the City's outrageous behavior against patients during the appellate court briefing period. Petitioner Ryan Pack is a member of the non-profit 562 Collective in Long Beach, California. On March 1, 2011, the City of Long Beach filed an action in Los Angeles Superior Court seeking to declare 562 Collective in violation of LBMC §§ 5.87.020 and 5.87.090 as well as to abate 562 Collective as a nuisance. On May 10, 2011, around twenty-five (25) Long Beach police officers broke-into the 562 Collective without a warrant using a battering ram.

On June 2, 2011, after the warrantless raid, seizures, and arrests, 562 Collective applied *ex parte* for an order to show cause regarding preliminary injunction prohibiting enforcement and for a temporary restraining order pending the order to show cause hearing. *City of Long Beach v. 562 Collective, et al.* (March 1, 2011) L.A.S.C. No. NC055751. After reviewing the moving papers as well as an opposition filed by the City, the trial court made a preliminary finding that the City's break-in, search, and seizure at the patient group was improper stating:

> "THE CONCERN THAT I HAVE IS AS ARTICULATED BY THE DEFENDANTS, THE EVIDENCE SEEMS TO SHOW THAT THE CITY THROUGH ITS POLICE HAVE USED WHAT I REFER TO AS STRONG-ARM TACTICS TO KNOCK DOWN DOORS OF THE COLLECTIVE WITHOUT A WARRANT AND WITHOUT EXIGENT CIRCUMSTANCES. PEOPLE WHO HAVE USED THE COLLECTIVE HAVE BEEN ARRESTED AND BOOKED AND IT'S FURTHER ALLEGED THE CITY HAS CONTACTED THE LANDLORD AND THREATENED TO WITHDRAW THE BUSINESS LICENSE UNLESS THE LANDLORD EVICTS THE DEFENDANT. AND THIS IS WHILE THIS CASE WHERE THE CITY IS THE

PLAINTIFF IS SEEKING TO ABATE WHAT IT REFERS TO THE NUISANCE WHICH IS THE DEFENDANT COLLECTIVE 562 FROM OPERATING. AND SO WHAT I DON'T UNDERSTAND IS WHY THE CITY WOULD USE SUCH TACTICS WHILE THE CASE IS PENDING?" *Long Beach v. 562 Collective, Transcript*, June 2, 2011, at p.2, lns.10-24 (*excerpt included.*)

The trial court then ordered a show cause hearing on an expedited basis for June 10, 2011. The briefing schedule in advance of the hearing was announced by the Court and accepted by the parties. On June 10, 2011, after the City had been ordered to show cause and the parties were before the trial court for the show cause hearing, the trial judge stated:

"IT'S ALLEGED THAT THE CITY, THROUGH OFFICERS AND OF THE POLICE DEPARTMENT, AN AGENCY OF THE CITY, ENGAGED IN CONDUCT THAT WAS NOT PART OF FORMAL CIVIL DISCOVERY. IT WAS NOT BASED UPON A SEARCH WARRANT. IT WAS NOT BASED UPON WHAT I WOULD REFER TO AS EXIGENT CIRCUMSTANCES, INSTEAD, BASED UPON WHAT I READ, OFFICERS USED A BATTERING RAM AND BROKE DOWN A DOOR AND SEIZED DOCUMENTS IN THE COLLECTIVE. I DON'T SEE ANYTHING PRESENTED BY THE CITY THAT SHOWS ANYTHING OTHER -- THERE'S UNREBUTTED ALLEGATIONS THAT WERE MADE BY THE COLLECTIVE, AND I DIDN'T SEE ANY RESPONSE TO THAT BY THE CITY. *Long Beach v. 562 Collective, supra,* Transcript, Order to Show Cause Hearing, June 10, 2011, at p. 3, lns. 12-22 (*excerpt included*).

Thereafter, the trial court reviewed a declaration of a Long Beach police officer submitted by the City apparently in support of its warrantless raid and search of and the seizure of property from 562 Collective. The judge then addressed the deputy city attorney stating:

"WITH ALL DUE RESPECT, I DON'T THINK IT'S UP TO OFFICER COOPER TO TELL ME WHETHER OR NOT HE'S COMPLIED. IF THAT WERE THE CASE, WE WOULDN'T NEED JUDICIAL OFFICERS TO DETERMINE WHETHER THERE IS PROBABLE CAUSE TO ISSUE A SEARCH WARRANT, AN ARREST WARRANT, WHETHER THERE'S PROBABLE CAUSE TO HOLD THE DEFENDANT TO ANSWER FOR A FELONY, ET CETERA, ET CETERA, ET CETERA. THERE IS NOT -- THERE'S NOT ONE FACT IN HERE THAT REBUTS ANY OF THE ALLEGATIONS MADE BY THE DEFENDANTS THAT IT WAS A SEARCH NOT INCIDENT TO A LAWFUL SEARCH WARRANT OR ANY SEARCH WARRANT OR THAT ANY EXIGENT CIRCUMSTANCES EXISTED. AND, THIRDLY, THAT

A BATTERING RAM DEVICE WAS USED TO BREAK DOWN A DOOR AND SEIZE DOCUMENTS AS TO AN OPPONENT IN A CIVIL CASE." *Long Beach v. 562 Collective, supra,* Transcript, June 10, 2011, at p. 5, lns. 4-18 (*excerpt included.*)

This is one (1) of about twenty (20) similar warrantless raids. There were **many** patients arrested under the invalid Chapter 5.87 permitting provisions. There are videos of several raids, harassment, and attacks now on YouTube. Interestingly, despite the numerous deaths related to drug abuse of dangerous opiates like Vicodin and Oxycontin, there were **no** warrantless raids of CVS, Walgreens, or similar medication providers. Likewise, in all of the 5.87 raids in Long Beach, there were no **arrests for violation of state law**. In other words, the patient groups were in compliance with the *MMPA* and Attorney General guidelines. I spoke with a managing patient in regard to the effect of such raids. He told me that patients become fearful of coming into the collectives, they are left without medication, and that it takes weeks for some patients to build up enough courage to come back, if they ever do, because of fears caused by this behavior.

Noting the reference to gangs and criminal activity in your December 21, 2011 letter sent to the leaders of the Assembly and Senate, it is appropriate to note that the vast majority of managing patients of patient collective groups are **not** people making $100,000.00 per month[1] or who drive expensive cars. While there are likely a small group of people distributing marijuana improperly and taking advantage of medical marijuana laws, the managing patients I have had the privilege of working with drive older vehicles that have over 100,000 miles on them. They do **not** make large sums of money and instead face financial issues and challenges while working to maintain medication availability for patients. Most of them have families and rent the houses they live in. While people like Mr. Cooley and Long Beach City Attorney Robert Shannon[2] would like to give the

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impression that medical marijuana is just a front for "drug dealing," it is **not** – it is **certainly not that for** those patients who suffer from ailments like Mr. Gayle and Mr. Pack. On the other hand, drug abusers choosing more dangerous drugs like Vicodin and Oxycontin can feign conditions, obtain prescriptions, go to a traditional pharmacy, have the prescription filled, and purchase a bottle of vodka and pack of cigarettes as they leave the pharmacy. Yet, they are not discriminated against through improper police raids and attacks simply because of the medication used that effectively works to mitigate symptoms and medical conditions they suffer from.

The *Pack* court **granted the Petition for *writ of mandamus*.** The appellate court referenced the "balance of hardship" requirements in analyzing the standard of review. That court did **not** create a situation that **requires cities to ban medical marijuana collectives**. Media seeking politicians get out in the press aggrandizing themselves by claiming the necessity of bans in an effort at getting that all-important spot on the evening news. Perhaps those politicians need to sit down and meet a cancer patient who is able to eat and who can participate in life because medical cannabis is effective.

I represent the plaintiff patients in *Marla James, et al. v. City of Costa Mesa, et al.* (2010 9th Cir.) 10-55769. It is the patients' assertion in that case that the *Americans with Disabilities Act of 1990* (ADA) as amended by Congress in 2008 is applicable to them. Under Title II of the ADA, cities may not implement policies or procedures, including but not limited to zoning laws, that facially or by operation discriminate against qualified disabled individuals.

In addition to the *ADA* argument in *James*, I have included an argument that is more applicable to "all seriously ill" Californians in medical need of cannabis. On December 17, 2009, President Obama signed into law the 2011 *Omnibus Appropriations Act* (P.L. 111-117, 2009.) For ten years prior to that date, Congress used its art. 1, sec. 8, cl. 17 **plenary authority over the federal District of Columbia** to prohibit implementation of that City's voter passed "*Legalization of Marijuana for Medical Uses*" law. (D.C. Initiative 59, 1998.) Thereafter, under that **federal jurisdiction's** *Home Rule Act*, the D.C. City Council unanimously approved D.C. Stat. [Proposed] 13-138. The Mayor signed that law in early

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June, 2010 and, because Congress has **plenary power** over the District and to ensure compliance with the mandate in art. 1, sec. 8, cl. 17, the proposed law **had to go to Congress for approval**. On or around July 29, 2010, the law was effectively **approved by Congress** allowing the federal district to implement its "*Legalization of Marijuana for Medical Uses*" law.

The House report on P.L. 111-117 shows Congress **knew** it was "allowing the District" to implement the "*Legalization of Marijuana for Medical Uses*" law much like the states. There was dissent reported and detailed in the House report. The press reported Congress's action as "allowing medical marijuana" in the District of Columbia. Today, there is a **complete section of Washington D.C. law that legalizes medical marijuana use, possession, transportation, cultivation, and distribution in that federal district**. Codified as Wa. D.C. Stat. 7-1671, *et seq.*, I have included just a small part of that law. The entire argument and detail is available on "Pacer" under 9th Cir. No. 10-55769.

Should Tony Gayle move to Washington D.C. to obtain marijuana and to be protected like patients using Vicodin or Oxycontin under the federal *Americans with Disabilities Act*? No, he should not. When Congress acted to allow the **voters of Washington D.C.** to legalize medical marijuana in P.L. 111-117, it likewise granted that same **fundamental right** to vote to **legalize – not just decriminalize – marijuana to the voters and their respective representatives in all of the states – including California**.

I believe the 9th Circuit will rule in favor of the disabled and seriously ill patients in *James v. Costa Mesa*. However, I am a sole practitioner and you are the Attorney General of California. **There need to be regulations – not bans.** The public safety, health, and welfare need to be balanced with the important needs and rights of the seriously ill, disabled, and permanently injured patients who have been recommended medical cannabis by a licensed doctor. The doctors need to be regulated – they should not be handing out recommendations via "Skype" or "willy-nilly."

Most importantly, cities like Long Beach, its City Attorney, and the Los Angeles District Attorney should **not** be thwarting state law in a manner that causes the **irreparable harm** redressed by the appellate court in *Pack*.

I believe the California Legislature has the ability to act now. I do **not** believe, considering Congress's action in Washington D.C., that California medical marijuana laws are now preempted by the federal *CSA*. Although I must wait until the Ninth Circuit decides that issue, perhaps the State of California itself can assert that issue or provide a letter brief to the Ninth Circuit. Likewise, perhaps the Governor as well as members of the

Legislature can work with their federal counterparts to ensure cities can regulate (not ban) collectives, doctors can be regulated in this area, and, most importantly, that patients have access to medical marijuana when that medication works effectively.

In addition to these issues, I respectfully ask that you *please* submit a letter brief supporting review of *Pack*, including **all three (3) issues presented by the City**, in the California Supreme Court. As with many of my letters, let me conclude by noting I do **not** use marijuana. I do not currently have a medical need for it. However, my daughter is a patient. She is 19-years-old and was almost killed in an assault in Nevada. Medical marijuana is effective for her and I do not believe that she should be treated differently than a patient for whom opiates, amphetamines, or benzodiazepines are effective.

Very truly yours,

Matthew Pappas

MSP:tp

encl.

cc: Mr. Anthony Gayle, Mr. Ryan Pack, and Ms. Marla James
Mr. Darrell Steinberg and Mr. John A. Perez
Mr. Robert Shannon, Ms. Rae Gabelich, and Ms. Suja Lowenthal
Mr. Charles Farano, Mr. David Welch, and Mr. Lee Durst
Mr. Jose Huizar
Mr. Edmund G. Brown, Jr.
Mr. Andre Birotte, Jr., Mr. Eric Holder, and Mr. Barrack Obama

STATE OF CALIFORNIA

OFFICE OF THE ATTORNEY GENERAL

KAMALA D. HARRIS
ATTORNEY GENERAL

December 21, 2011

The Honorable Darrell Steinberg
President Pro-Tempore
State Capitol, Room 205
Sacramento, CA 95814

The Honorable John A. Perez
Speaker of the Assembly
State Capitol
P.O. Box 942849
Sacramento, CA 94249-0046

Re: Medical Marijuana Legislation

Dear President Pro-Tempore Steinberg and Speaker Perez:

As the state's chief law enforcement official, I am troubled by the exploitation of California's medical marijuana laws by gangs, criminal enterprises and others. My Office recently concluded a long series of meetings with representatives across the state from law enforcement, cities, counties, and the patient and civil rights communities. The primary purpose of the meetings was to assess whether we could clarify the medical marijuana guidelines that my predecessor published in 2008 in order to stop the abuses. These conversations, and the recent unilateral federal enforcement actions, reaffirmed that the facts today are far more complicated than was the case in 2008. I have come to recognize that non-binding guidelines will not solve our problems – state law itself needs to be reformed, simplified, and improved to better explain to law enforcement and patients alike how, when, and where individuals may cultivate and obtain physician-recommended marijuana. In short, it is time for real solutions, not half-measures.

I am writing to identify some unsettled questions of law and policy in the areas of cultivation and distribution of physician-recommended marijuana that I believe are suitable for legislative treatment. Before I get into the substance, however, I want to highlight two important legal boundaries to keep in mind when drafting legislation.

First, the Court of Appeal for the Second Appellate District recently ruled in *Pack v. Superior Court* (2011) 199 Cal.App.4th 1070 that state and local laws which license the large-scale cultivation and manufacture of marijuana stand as an obstacle to federal enforcement efforts and are therefore preempted by the federal Controlled Substances Act. Although the parties involved in that case have sought review of the decision in the California Supreme Court, for now it is binding law. As mentioned below, the decision in *Pack* may limit the ways in which the State can regulate dispensaries and related activities.

Second, because the Compassionate Use Act (Proposition 215) was adopted as an initiative statute, legislative efforts to address some of the issues surrounding medical marijuana might be limited by article II, section 10(c) of the Constitution, which generally prohibits the Legislature from amending initiatives, or changing their scope or effect, without voter approval. In simple terms, this means that the core right of qualified patients to cultivate and possess marijuana cannot be abridged. But, as long as new laws do not "undo what the people have done" through Proposition 215, we believe that the Legislature remains free to address many issues, including dispensaries, collective cultivation, zoning, and other issues of concern to cities and counties unrelated to the core rights created in the Compassionate Use Act.

With this context, the following are significant issues that I believe require clarification in statute in order to provide certainty in the law:

(1) Defining the contours of the right to collective and cooperative cultivation

Section 11362.775 of the Health and Safety Code recognized a group cultivation right and is the source of what have come to be known as "dispensaries." It provides, in full:

> Qualified patients, persons with valid identification cards, and the designated primary caregivers of qualified patients and persons with identification cards, who associate within the State of California in order collectively or cooperatively to cultivate marijuana for medical purposes, shall not solely on the basis of that fact be subject to state criminal sanctions under Section 11357, 11358, 11359, 11360, 11366, 11366.5, or 11570.

There are significant unresolved legal questions regarding the meaning of this statute. Strict constructionists argue that the plain wording of the law only provides immunity to prosecution for those who "associate" in order to "collectively or cooperatively . . . cultivate" marijuana, and that any interpretation under which group members are not involved in physical cultivation is too broad. Others read section 11362.775 expansively to permit large-scale cultivation and transportation of marijuana, memberships in multiple collectives, and the sale of marijuana through dispensaries. These divergent viewpoints highlight the statute's ambiguity. Without a substantive change to existing law, these irreconcilable interpretations of the law, and the resulting uncertainty for law enforcement and seriously ill patients, will persist. By articulating the scope of the collective and cooperative cultivation right, the Legislature will help law enforcement and others ensure lawful, consistent and safe access to medical marijuana.

(2) Dispensaries

The term "dispensary" is not found in Proposition 215 and is not defined in the Medical Marijuana Program Act. It generally refers to any group that is "dispensing," or distributing, medical marijuana grown by one or more of its members to other members of the enterprise through a commercial storefront.

Many city, county, and law enforcement leaders have told us they are concerned about the proliferation of dispensaries, both storefront and mobile, and the impact they can have on public safety and quality of life. Rather than confront these difficult issues, many cities are opting to simply ban dispensaries, which has obvious impacts on the availability of medicine to patients in those communities. Here, the Legislature could weigh in with rules about hours, locations, audits, security, employee background checks, zoning, compensation, and whether sales of marijuana are permissible.

As noted, however, the *Pack* decision suggests that if the State goes too far in regulating medical marijuana enterprises (by permitting them, requiring license or registration fees, or calling for mandatory testing of marijuana), the law might be preempted by the Controlled Substances Act. We also cannot predict how the federal government will react to legislation regulating (and thus allowing) large scale medical marijuana cultivation and distribution. However, the California-based United States Attorneys have stated (paraphrase Cole memo re: hands off approach to those clearly complying with relevant state medical marijuana laws).

(3) Non-Profit Operation

Nothing in Proposition 215 or the Medical Marijuana Program Act authorizes any individual or group to cultivate or distribute marijuana for profit. Thus, distribution and sales for profit of marijuana – medical or otherwise – are criminal under California law. It would be helpful if the Legislature could clarify what it means for a collective or cooperative to operate as a "non-profit."

The issues here are defining the term "profit" and determining what costs are reasonable for a collective or cooperative to incur. This is linked to the issue of what compensation paid by a collective or cooperative to members who perform work for the enterprise is reasonable.

(4) Edible medical marijuana products

Many medical marijuana collectives, cooperatives, and dispensaries offer food products to their members that contain marijuana or marijuana derivatives such as cannabis oils or THC. These edible cannabis products, which include cookies, brownies, butter, candy, ice cream, and cupcakes, are not monitored or regulated by state and local health authorities like commercially-distributed food products or pharmaceuticals, nor can they be given their drug content. Likewise, there presently are no standards for THC dosage in edible products.

Commercial enterprises that manufacture and distribute marijuana edibles and candy do not fit any recognized model of collective or cooperative cultivation and under current law may be engaged in the illegal sale and distribution of marijuana. Clarity must be brought to the law in order to protect the health and safety of patients who presently cannot be sure whether the edibles they are consuming were manufactured in a safe manner.

I hope that the foregoing suggestions are helpful to you in crafting legislation. California law places a premium on patients' rights to access marijuana for medical use. In any legislative action that is taken, the voters' decision to allow physicians to recommend marijuana to treat seriously ill individuals must be respected.

Please do not hesitate to contact me if you have questions or concerns.

Sincerely,

KAMALA D. HARRIS
Attorney General

cc: The Honorable Mark Leno
The Honorable Tom Ammiano

MATTHEW S. PAPPAS
ATTORNEY

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December 23, 2011

VIA U.S. MAIL

Ms. Kamala D. Harris
Attorney General
State of California
1300 I Street, Suite 1740
Sacramento, CA 95814

Re: *Pack v. Superior Court* (2011) 199 Cal.App.4th 1070

Dear Ms. Harris:

I am the attorney representing the patients in the above referenced case. I am in receipt of your letter to members of the state Legislature dated December 21, 2011 regarding medical marijuana in California.

Anthony Gayle is one of the patients in the *Pack* case. He is 25 years old. He suffers from renal failure. He's had heart surgery to replace a part of his heart. Mr. Gayle must have kidney dialysis three (3) times per week. He is likely terminal. Dangerous and addictive opiate drugs like Vicodin and Oxycontin have been contraindicated given his condition.

In the underlying *Pack* case, Mr. Gayle, along with patient Ryan Pack, who was permanently and seriously injured after being hit by a vehicle while riding a bicycle, applied to the trial court for a preliminary injunction.

Long Beach enacted Chapter 5.87 of its municipal code in March, 2010. I have included video excerpts from a City Council meeting held that date. In the video, you will see that city council members were confused by a presentation made by the Los Angeles District Attorney's office. Apparently, the District Attorney felt it necessary to confuse council members based on his staunch opposition to patient rights. It appears he either willfully withheld information regarding the provisions of Ca. Health & Safety Code § 11362.775 or simply failed to read that state law before discussing transportation.

In the video excerpts, you will notice that the members of the council are clearly confused about the transportation issue during the meeting.

Chapter 5.87 was **not** enacted for the benefit of the "all seriously ill Californians" in need of medical cannabis the voters of California considered when they enacted the *Compassionate Use Act* in 1996. As then councilwoman Tonia Reyes-Uranga stated on the record during the March 16, 2010 meeting, Chapter 5.87 is "pretty much a sham" that was designed to take away medication access for patients like Ryan Pack and Anthony Gayle.

On October 6, 2010, patients Pack and Gayle argued before the trial court in the underlying case that a preliminary injunction should issue barring the City from enforcing Chapter 5.87 because the enforcement of that law would result in their inability to access collectives. Dealing with serious medical conditions and life issues, Pack and Gayle access medication through collectives established under and operating pursuant to the *Medical Marijuana Program Act* and 2008 Attorney General guidelines governing the *Safety and Non-Diversion of Marijuana Used for Medical Purposes*.

As you know, injunctive relief is extraordinary in nature and requires the court to assess probability of success on the merits, irreparable harm, and balance respective hardships. On November 2, 2010, although finding Chapter 5.87 was "motivated by sentiments contrary to" and "inconsistent with" the *Compassionate Use Act* and *Medical Marijuana Program Act*, the trial court declined to issue the requested preliminary injunction. Thereafter, the patients petitioned the Second District California Court of Appeal for a peremptory *writ of mandamus* or for an *alternative writ*. The appellate court granted the *alternative writ* and ordered the parties to show cause.

On October 4, 2011, after extensive briefing by the parties and by *amici curiae* including the *American Civil Liberties Union*, the *ACLU of Southern California*, the *ACLU of Northern California*, the *ACLU of San Diego and Imperial Counties*, *Americans for Safe Access*, the *National Drug Policy Alliance*, the *City of Los Angeles*, the *League of California Cities*, and the *Association of California Counties*, the appellate court **granted the petition for *writ of mandamus*.**

When it granted the patients' Petition, the court said there was a "100%" chance the injunction should have been issued by the trial court. The **irreparable harm** claimed by the patients was their **inability to access medication through the collective and cooperative system provided for in the *MMPA* because enforcement of Chapter 5.87 would lead to closure of their respective collectives**. Yet, days after the *Pack* decision, in a retaliatory manner and with the same "sentiments contrary to" the *CUA* and *MMPA*

referred to by the trial court in its November 2, 2010 order, City Attorney Robert Shannon **told the Long Beach City Council it must ban all collectives.**

Mr. Shannon and the Los Angeles District Attorney are violating state law. They are violating the state's *Compassionate Use Act* and the *Medical Marijuana Program Act*. On December 13, 2011, Mr. Shannon publically represented in a Long Beach City Council meeting that the *Pack* case **required** the Long Beach City Council to **ban** all patient collectives. He did not say a "moratorium" was appropriate, but instead said a **ban** was **absolutely necessary**. Mr. Shannon's presentation was **recorded on video** and is now available on the longbeach.gov Website. He misrepresented what the *Pack* decision means.

After the appellate court ordered the parties to show cause in *Pack* back in November, 2010, the City of Long Beach engaged in abhorrent conduct aimed at attacking, harassing, and arresting patients. I'll just provide one (1) example of the City's outrageous behavior against patients during the appellate court briefing period. Petitioner Ryan Pack is a member of the non-profit 562 Collective in Long Beach, California. On March 1, 2011, the City of Long Beach filed an action in Los Angeles Superior Court seeking to declare 562 Collective in violation of LBMC §§ 5.87.020 and 5.87.090 as well as to abate 562 Collective as a nuisance. On May 10, 2011, around twenty-five (25) Long Beach police officers broke-into the 562 Collective without a warrant using a battering ram.

On June 2, 2011, after the warrantless raid, seizures, and arrests, 562 Collective applied *ex parte* for an order to show cause regarding preliminary injunction prohibiting enforcement and for a temporary restraining order pending the order to show cause hearing. *City of Long Beach v. 562 Collective, et al.* (March 1, 2011) L.A.S.C. No. NC055751. After reviewing the moving papers as well as an opposition filed by the City, the trial court made a preliminary finding that the City's break-in, search, and seizure at the patient group was improper stating:

> "THE CONCERN THAT I HAVE IS AS ARTICULATED BY THE DEFENDANTS, THE EVIDENCE SEEMS TO SHOW THAT THE CITY THROUGH ITS POLICE HAVE USED WHAT I REFER TO AS STRONG-ARM TACTICS TO KNOCK DOWN DOORS OF THE COLLECTIVE WITHOUT A WARRANT AND WITHOUT EXIGENT CIRCUMSTANCES. PEOPLE WHO HAVE USED THE COLLECTIVE HAVE BEEN ARRESTED AND BOOKED AND IT'S FURTHER ALLEGED THE CITY HAS CONTACTED THE LANDLORD AND THREATENED TO WITHDRAW THE BUSINESS LICENSE UNLESS THE LANDLORD EVICTS THE DEFENDANT. AND THIS IS WHILE THIS CASE WHERE THE CITY IS THE

PLAINTIFF IS SEEKING TO ABATE WHAT IT REFERS TO THE NUISANCE WHICH IS THE DEFENDANT COLLECTIVE 562 FROM OPERATING. AND SO WHAT I DON'T UNDERSTAND IS WHY THE CITY WOULD USE SUCH TACTICS WHILE THE CASE IS PENDING?" *Long Beach v. 562 Collective, Transcript*, June 2, 2011, at p.2, lns.10-24 (*excerpt included.*)

The trial court then ordered a show cause hearing on an expedited basis for June 10, 2011. The briefing schedule in advance of the hearing was announced by the Court and accepted by the parties. On June 10, 2011, after the City had been ordered to show cause and the parties were before the trial court for the show cause hearing, the trial judge stated:

"IT'S ALLEGED THAT THE CITY, THROUGH OFFICERS AND OF THE POLICE DEPARTMENT, AN AGENCY OF THE CITY, ENGAGED IN CONDUCT THAT WAS NOT PART OF FORMAL CIVIL DISCOVERY. IT WAS NOT BASED UPON A SEARCH WARRANT. IT WAS NOT BASED UPON WHAT I WOULD REFER TO AS EXIGENT CIRCUMSTANCES, INSTEAD, BASED UPON WHAT I READ, OFFICERS USED A BATTERING RAM AND BROKE DOWN A DOOR AND SEIZED DOCUMENTS IN THE COLLECTIVE. I DON'T SEE ANYTHING PRESENTED BY THE CITY THAT SHOWS ANYTHING OTHER -- THERE'S UNREBUTTED ALLEGATIONS THAT WERE MADE BY THE COLLECTIVE, AND I DIDN'T SEE ANY RESPONSE TO THAT BY THE CITY. *Long Beach v. 562 Collective, supra,* Transcript, Order to Show Cause Hearing, June 10, 2011, at p. 3, lns. 12-22 (*excerpt included*).

Thereafter, the trial court reviewed a declaration of a Long Beach police officer submitted by the City apparently in support of its warrantless raid and search of and the seizure of property from 562 Collective. The judge then addressed the deputy city attorney stating:

"WITH ALL DUE RESPECT, I DON'T THINK IT'S UP TO OFFICER COOPER TO TELL ME WHETHER OR NOT HE'S COMPLIED. IF THAT WERE THE CASE, WE WOULDN'T NEED JUDICIAL OFFICERS TO DETERMINE WHETHER THERE IS PROBABLE CAUSE TO ISSUE A SEARCH WARRANT, AN ARREST WARRANT, WHETHER THERE'S PROBABLE CAUSE TO HOLD THE DEFENDANT TO ANSWER FOR A FELONY, ET CETERA, ET CETERA, ET CETERA. THERE IS NOT -- THERE'S NOT ONE FACT IN HERE THAT REBUTS ANY OF THE ALLEGATIONS MADE BY THE DEFENDANTS THAT IT WAS A SEARCH NOT INCIDENT TO A LAWFUL SEARCH WARRANT OR ANY SEARCH WARRANT OR THAT ANY EXIGENT CIRCUMSTANCES EXISTED. AND, THIRDLY, THAT

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Noting the reference to gangs and criminal activity in your December 21, 2011 letter sent to the leaders of the Assembly and Senate, it is appropriate to note that the vast majority of managing patients of patient collective groups are **not** people making $100,000.00 per month[1] or who drive expensive cars. While there are likely a small group of people distributing marijuana improperly and taking advantage of medical marijuana laws, the managing patients I have had the privilege of working with drive older vehicles that have over 100,000 miles on them. They do **not** make large sums of money and instead face financial issues and challenges while working to maintain medication availability for patients. Most of them have families and rent the houses they live in. While people like Mr. Cooley and Long Beach City Attorney Robert Shannon[2] would like to give the

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such medication nor would such medication be effective for them. A cursory review indicated that **no** medication provided by the patient groups in Long Beach comes from illegal 'drug cartels' and, in fact, the police agency in Long Beach is really concerned with budget cuts and is seeking to **increase crime rates** in an effort to maintain federal funding for narcotics programs. Given the clear evidence shows **crime increases** when medical marijuana collectives are **closed down**, , it is clear the intent of the police and public employees is to ensure job security in a manner that harms seriously ill and disabled Californians.

June, 2010 and, because Congress has **plenary power** over the District and to ensure compliance with the mandate in art. 1, sec. 8, cl. 17, the proposed law **had to go to Congress for approval**. On or around July 29, 2010, the law was effectively **approved by Congress** allowing the federal district to implement its "*Legalization of Marijuana for Medical Uses*" law.

The House report on P.L. 111-117 shows Congress **knew** it was "allowing the District" to implement the "*Legalization of Marijuana for Medical Uses*" law much like the states. There was dissent reported and detailed in the House report. The press reported Congress's action as "allowing medical marijuana" in the District of Columbia. Today, there is a **complete section of Washington D.C. law that legalizes medical marijuana use, possession, transportation, cultivation, and distribution in that federal district**. Codified as Wa. D.C. Stat. 7-1671, *et seq.*, I have included just a small part of that law. The entire argument and detail is available on "Pacer" under 9th Cir. No. 10-55769.

Should Tony Gayle move to Washington D.C. to obtain marijuana and to be protected like patients using Vicodin or Oxycontin under the federal *Americans with Disabilities Act*? No, he should not. When Congress acted to allow the **voters of Washington D.C.** to legalize medical marijuana in P.L. 111-117, it likewise granted that same **fundamental right** to vote to **legalize – not just decriminalize – marijuana to the voters and their respective representatives in all of the states – including California**.

I believe the 9th Circuit will rule in favor of the disabled and seriously ill patients in *James v. Costa Mesa*. However, I am a sole practitioner and you are the Attorney General of California. **There need to be regulations – not bans.** The public safety, health, and welfare need to be balanced with the important needs and rights of the seriously ill, disabled, and permanently injured patients who have been recommended medical cannabis by a licensed doctor. The doctors need to be regulated – they should not be handing out recommendations via "Skype" or "willy-nilly."

Most importantly, cities like Long Beach, its City Attorney, and the Los Angeles District Attorney should **not** be thwarting state law in a manner that causes the **irreparable harm** redressed by the appellate court in *Pack*.

I believe the California Legislature has the ability to act now. I do **not** believe, considering Congress's action in Washington D.C., that California medical marijuana laws are now preempted by the federal *CSA*. Although I must wait until the Ninth Circuit decides that issue, perhaps the State of California itself can assert that issue or provide a letter brief to the Ninth Circuit. Likewise, perhaps the Governor as well as members of the

Legislature can work with their federal counterparts to ensure cities can regulate (not ban) collectives, doctors can be regulated in this area, and, most importantly, that patients have access to medical marijuana when that medication works effectively.

In addition to these issues, I respectfully ask that you *please* submit a letter brief supporting review of *Pack*, including **all three (3) issues presented by the City**, in the California Supreme Court. As with many of my letters, let me conclude by noting I do **not** use marijuana. I do not currently have a medical need for it. However, my daughter is a patient. She is 19-years-old and was almost killed in an assault in Nevada. Medical marijuana is effective for her and I do not believe that she should be treated differently than a patient for whom opiates, amphetamines, or benzodiazepines are effective.

Very truly yours,

Matthew Pappas

MSP:tp

encl.

cc: Mr. Anthony Gayle, Mr. Ryan Pack, and Ms. Marla James
Mr. Darrell Steinberg and Mr. John A. Perez
Mr. Robert Shannon, Ms. Rae Gabelich, and Ms. Suja Lowenthal
Mr. Charles Farano, Mr. David Welch, and Mr. Lee Durst
Mr. Jose Huizar
Mr. Edmund G. Brown, Jr.
Mr. Andre Birotte, Jr., Mr. Eric Holder, and Mr. Barrack Obama

THAN THIS ONE PENDING INVOLVING SIMILAR ISSUES, THE LEGALITY OF THE ORDINANCE IN THE CITY OF LONG BEACH THAT DEALS WITH MARIJUANA COLLECTIVES. BASED UPON TWO PRIOR CASES THAT I CAN THINK OF, I FOUND THAT THE ORDINANCE IN THE CITY OF LONG BEACH WAS CONSTITUTIONAL AND THE ENFORCEMENT OF THE ORDINANCE COULD NOT BE ENJOINED. THAT MATTER IS NOW PENDING BEFORE THE COURT OF APPEAL IN THE STATE OF CALIFORNIA, SECOND APPELLATE DISTRICT.

AS I'VE NOTED IN THIS LAWSUIT, THE CITY HAS FILED A LAWSUIT TO ABATE A NUISANCE. THE CONCERN THAT I HAVE IS AS ARTICULATED BY THE DEFENDANTS, THE EVIDENCE SEEMS TO SHOW THAT THE CITY THROUGH ITS POLICE HAVE USED WHAT I REFER TO AS STRONG-ARM TACTICS TO KNOCK DOWN DOORS OF THE COLLECTIVE WITHOUT A WARRANT AND WITHOUT EXIGENT CIRCUMSTANCES.

PEOPLE WHO HAVE USED THE COLLECTIVE HAVE BEEN ARRESTED AND BOOKED AND IT'S FURTHER ALLEGED THE CITY HAS CONTACTED THE LANDLORD AND THREATENED TO WITHDRAW THE BUSINESS LICENSE UNLESS THE LANDLORD EVICTS THE DEFENDANT. AND THIS IS WHILE THIS CASE WHERE THE CITY IS THE PLAINTIFF IS SEEKING TO ABATE WHAT IT REFERS TO THE NUISANCE WHICH IS THE DEFENDANT COLLECTIVE 562 FROM OPERATING. AND SO WHAT I DON'T UNDERSTAND IS WHY THE CITY WOULD USE SUCH TACTICS WHILE THE CASE IS PENDING.

THE QUESTION THAT I HAVE IS, IF I ACCEPT THE ALLEGATIONS OF THE DEFENDANT MOVING PARTY AS TRUE, WHY SHOULDN'T THE COURT ENJOIN THE CITY FROM STRONG-ARM TACTICS?

MS. CARNEY: YOUR HONOR, IF I MAY FIRST ADDRESS THE

CONNECTION WITH 3970 ATLANTIC AVENUE IN THE CITY OF LONG BEACH, WHICH I BELIEVE TO BE THE LOCALE OF THE 562 COLLECTIVE."

WITH ALL DUE RESPECT, I DON'T THINK IT'S UP TO OFFICER COOPER TO TELL ME WHETHER OR NOT HE'S COMPLIED. IF THAT WERE THE CASE, WE WOULDN'T NEED JUDICIAL OFFICERS TO DETERMINE WHETHER THERE IS PROBABLE CAUSE TO ISSUE A SEARCH WARRANT, AN ARREST WARRANT, WHETHER THERE'S PROBABLE CAUSE TO HOLD THE DEFENDANT TO ANSWER FOR A FELONY, ET CETERA, ET CETERA, ET CETERA.

THERE IS NOT -- THERE'S NOT ONE FACT IN HERE THAT REBUTS ANY OF THE ALLEGATIONS MADE BY THE DEFENDANTS THAT IT WAS A SEARCH NOT INCIDENT TO A LAWFUL SEARCH WARRANT OR ANY SEARCH WARRANT OR THAT ANY EXIGENT CIRCUMSTANCES EXISTED.

AND, THIRDLY, THAT A BATTERING RAM DEVICE WAS USED TO BREAK DOWN A DOOR AND SEIZE DOCUMENTS AS TO AN OPPONENT IN A CIVIL CASE.

MS. CARNEY: I UNDERSTAND, YOUR HONOR. FIRST, THE CITY BELIEVES THAT THE DEFENSE HAS MADE ALLEGATIONS UNSUPPORTED BY EVIDENCE CONCERNING THE CIRCUMSTANCES. AND --

THE COURT: I'M SORRY. I JUST WANTED TO FOCUS ON THE WORDS "THE PLAINTIFF BELIEVES THAT THE DEFENDANTS."

MS. CARNEY: DEFENDANTS HAVE MADE ALLEGATIONS NOT SUPPORTED BY EVIDENCE CONCERNING THE EVENTS THAT THEY ALLEGE OCCURRED AT THE 562 COLLECTIVE.

WHILE I'M NOT DISPUTING THE POLICE DO CONDUCT REGULAR INVESTIGATIONS AND THOSE INVESTIGATIONS DID INCLUDE

EXHIBIT "2"

AN INVESTIGATION OF 562, OTHER THAN STATING AT THIS TIME THAT THEY COMPLIED WITH ALL THE REQUIREMENTS OF THE CONSTITUTION, IF THE DEFENDANTS WOULD LIKE TO BRING A 1983 CLAIM, AS I DISCUSSED IN MY FURTHER OPPOSITION, THEY'RE WELCOME TO DO SO. AT THAT POINT WE MAY BE REQUIRED TO DISCLOSE SPECIFICALLY THE EXIGENT CIRCUMSTANCES. BUT AS FAR AS THE MATTER THAT WE'RE HERE FOR TODAY, THE CITY'S POSITION IS THAT WE DID SUPPLY INFORMATION DENYING THEIR ALLEGATIONS AND THAT --

THE COURT: I DISAGREE WITH THAT STATEMENT. I THINK YOU DENIED THE ALLEGATIONS, BUT I DON'T THINK YOU SUPPLIED ANY FACTS TO REBUT THE ALLEGATIONS.

MS. CARNEY: I UNDERSTAND. I THINK THAT'S CORRECT.

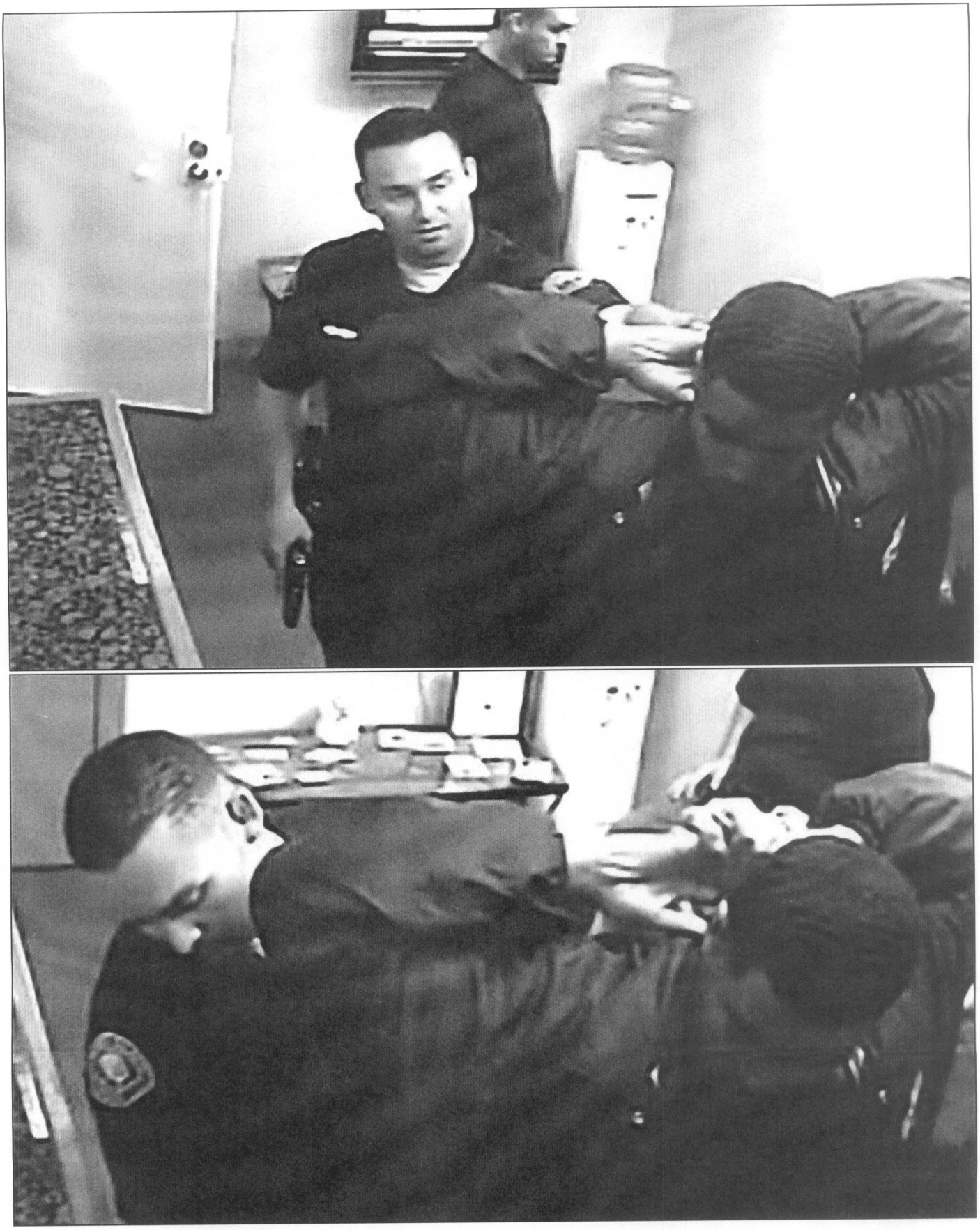
THE COURT: I THINK THERE IS A DIFFERENCE WITH A DISTINCTION.

MS. CARNEY: I AGREE.

THE COURT: ALL RIGHT. WELL, THE REQUEST OF THE DEFENDANT IS ASKING THE COURT TO ENJOIN THE ENFORCEMENT OF THE ORDINANCE IN QUESTION. AND I WILL SAY I'VE GIVEN THIS MATTER A GREAT DEAL OF THOUGHT. HERE'S WHAT I -- HERE'S THE BENEFIT OF MY THOUGHTS.

AS I'VE NOTED EARLIER, THE CITY HAS BROUGHT THIS CIVIL CASE WHERE IT IS THE PLAINTIFF AND IT SEEKS TO ABATE WHAT IT CALLS A PUBLIC NUISANCE, THE OPERATION OF THE 562 COLLECTIVE, WHICH IT ALLEGES SHOULD NOT BE PERMITTED TO OPERATE IN THE CITY.

ON THE OTHER END OF THE TABLE, THE DEFENDANT CONTENDS THAT -- I BELIEVE IT WAS ON MAY THE 9TH OF THIS YEAR AGENTS OF THE PLAINTIFF, SPECIFICALLY POLICE OFFICERS FROM




POLICE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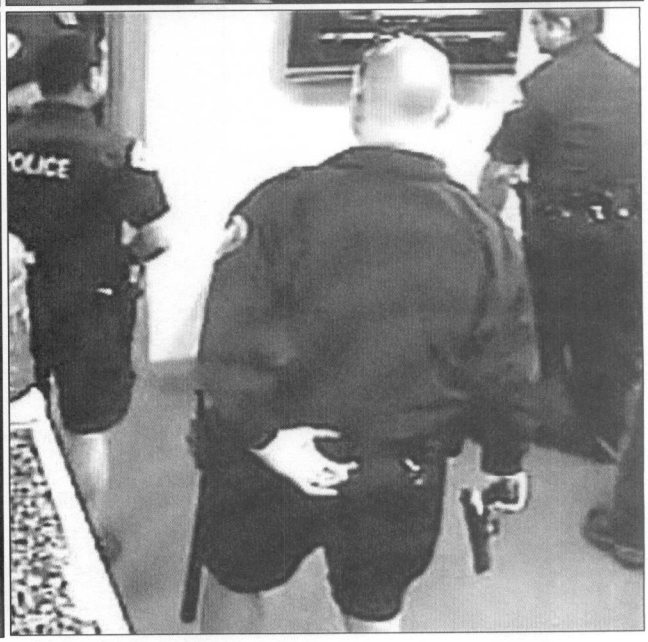
POLICE

DECLARATION OF WADE ANDREWS

1. I Wade Andrews, declare as follows:

2. I am over the age of 18. I am the property manager for the building located at 3970 Atlantic Avenue in Long Beach, California.

3. In early May, I was contacted by telephone by a person identifying himself as Erik Sund. Mr. Sund identified that he works for the City of Long Beach. During the call, Mr. Sund told me that he wanted the 562 patient collective that leases an office location in the 3970 Atlantic Ave. building to be evicted. When I asked him why, he became agitated and told me if I did not evict the patient group, he would revoke my business license and that I would never again be able to obtain a business license in the City of Long Beach.

4. After the call, I notified the 562 patient group that the group had to cease operations and vacate the premises within 30-days. I provided written notice to the group based on the threats made to me by Mr. Sund.

5. Several days after the call from Mr. Sund, I received a notice by mail that I was to appear before Mr. Sund for a business license revocation hearing. A true and correct copy of the notice of business license revocation that I received is included with this declaration.

6. I have received Long Beach citations alleging that I am in violation of Long Beach Municipal Code section 5.87. According to the citations, one of which is included with this declaration, I am violating 5.87 because 562 collective group does not have a permit to cultivate medical marijuana in the City of Long Beach.

7. I felt threatened by Mr. Sund. My wife was scheduled for surgery the day after Mr. Sund called me. I was distressed and worried as a result of his call to me.

I declare under penalty of perjury under the laws of the State of California that the aforementioned statement represents my personal knowledge and is true and correct.

Executed June 6, 2011:

Wade Andrews

LEAGUE OF CALIFORNIA CITIES

1400 K Street, Suite 400 • Sacramento, California 95814
Phone: 916.658.8200 Fax: 916.658.8240
www.cacities.org

MEMORANDUM

Date: October 26, 2011
From: Ad Hoc Medical Marijuana Committee, City Attorneys' Department
Re: ***Pack v. City of Long Beach* – Analysis**

This memorandum is provided for general information only and is not offered or intended as legal advice. Readers should seek the advice of an attorney when confronted with legal issues and attorneys should perform an independent evaluation of the issues raised in this memorandum.

INTRODUCTION

The following is an analysis of *Pack v. Superior Court of Los Angeles County (City of Long Beach)*, 2011 WL 4553155 (Cal.App. 2 Dist.), prepared by the Ad Hoc Medical Marijuana Committee of the City Attorneys' Department. Questions that may be raised by the opinion are also included.

FACTS

The City of Long Beach (City) enacted a comprehensive regulatory scheme governing medical marijuana collectives. Under the ordinance, the City charged application fees, and, because the ordinance prohibited any collective from operating within 1,000 feet of another collective, held a lottery to determine which locations could potentially operate. When enacted, the ordinance expressly provided that no collective could commence or continue operations without a permit. To obtain a permit, collectives were subject to numerous operational requirements and location restrictions. To date, the City has not issued any permits.

PROCEDURAL POSTURE

Plaintiffs were members of medical marijuana collectives who sought to enjoin enforcement of the City's ordinance, arguing that the ordinance went beyond decriminalization and permitted conduct prohibited by the federal Controlled Substance Act (CSA). The trial court denied the preliminary injunction, declining to address the federal preemption argument and instead finding that plaintiffs could not request such a finding when the plaintiffs themselves were in violation of the same federal law. Plaintiffs filed a petition for writ of mandate in the Court of Appeal, Second District, Division 3. That Court granted the writ petition as to the permit provisions of

the ordinance and remanded the matter to the trial court to determine whether any remaining provisions could be severed and given effect, and whether any of the remaining provisions conflict with state law.

ISSUE

The Court of Appeal framed the issue as being "whether the City's ordinance, which permits and regulates medical marijuana collectives rather than merely decriminalizing specific acts, is preempted by federal law."[1]

HELD

In a case of first impression, the Court concluded that, to the extent the City's ordinance permits collectives, it stands as an obstacle to the purposes of the CSA and is preempted by federal law. The ordinance's permit provisions, including its "substantial" application and renewal fees and lottery system, impermissibly authorize the operation of collectives. One provision, which requires permitted collectives to have samples of their marijuana analyzed by an independent laboratory, is preempted under conflict preemption principles because it requires collectives to violate the CSA by distributing marijuana for testing.

ANALYSIS

The Court reviewed the CSA, Compassionate Use Act (CUA), and Medical Marijuana Program Act (MMPA). The Court noted that the CSA contains a provision governing preemption, and relied on that provision in its analysis. The Court further noted that the CUA "simply decriminalizes" certain conduct for state law purposes, and thus is not preempted by the CSA, citing *Qualified Patients Ass'n v. City of Anaheim,* 187 Cal. 4th 734,757 (2010). The Court described the MMPA as an expansion of the immunities provided by the CUA,[2] including arrest immunity for those who participate in the voluntary identification card system. It also limited the amount of marijuana that may be possessed, and decriminalized the collective or cooperative cultivation of marijuana. The Court later relies on the distinction between decriminalization and "authorization" or "permission" in its conclusion that the City's ordinance is preempted by federal law.

In its preemption analysis, the Court reviewed the four types of federal preemption: express, conflict, obstacle and field preemption. Express and field preemption were eliminated as sources

[1] The larger issue is whether any state, county or municipality can regulate medical marijuana collectives without violating the CSA, which was enacted to prevent illicit drug diversion.

[2] The additional immunities provided under the MMPA are triggered "solely on the basis of" specified conduct by specified individuals. To the extent that the conduct goes beyond that, it is not immunized or decriminalized. *People v. Mentch,* 45 Cal. 4th 274 (2008)

of preemption because of 21 U.S.C. § 903.[3] Conflict preemption is established when it is impossible to simultaneously comply with two laws, in this case the CSA and the City's ordinance. Citing *County of San Diego v. San Diego NORML*, 165 Cal. App. 4th, 798, 823 (2008), the reviewing Court determined that "the federal CSA would preempt any state or local law which fails the test for conflict preemption." Thereafter, the Court acknowledged that other courts "concluded that the federal CSA's preemption language bars consideration of obstacle preemption" while another court "concluded that the federal CSA preempts conflicting laws under both conflict and obstacle preemption." Addressing these divergent views, the Court reasoned that "the federal CSA can preempt state and local laws under both conflict and obstacle preemption." In so doing, the Court maintained that it had "not driven a legal wedge – only a terminological one – between 'conflicts' that prevent or frustrate the accomplishment of a federal objective and 'conflicts' that make it 'impossible' for private parties to comply with both state and federal law."

That said, in the limited area of medical marijuana testing, the Court applied conflict preemption. Specifically, the Court found the City's requirement that collectives have samples of their medical marijuana tested at an independent laboratory to ensure that it is free from pesticides and contaminants was preempted by the CSA because this provision required collectives to distribute marijuana for testing. The Court was not persuaded by the argument that the ordinance did not compel any person who did not desire to possess or distribute marijuana to do so.[4]

The Court expressly disagreed with,

> their colleagues who, in two other appellate opinions, have implied that medical marijuana laws might not pose an obstacle to the accomplishment of the purposes of the federal CSA because the purpose of the federal CSA is to combat recreational drug use, not regulate a state's medical practices . . . [and] as far as Congress is concerned, there is no such thing as medical marijuana.

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[3] Section 903 provides: "No provision of this subchapter shall be construed as indicating an intent on the part of the Congress to occupy the field in which that provision operates, including criminal penalties, to the exclusion of any State law on the same subject matter which would otherwise be within the authority of the State, unless there is a positive conflict between that provision of this subchapter and that State law so that the two cannot consistently stand together."

[4] In a troubling footnote, and while acknowledging that the issue was not before them, the Court noted that the City's ordinance might require certain city officials to violate federal law by aiding and abetting a violation of the CSA. The Court then points to a letter written by US Attorneys for the Eastern District to the Governor of Washington, in which the U.S. Attorneys warn that state employees may not be immune from liability under the CSA for the employees' implementation of certain legislative proposals for marijuana growers and dispensaries. The Court did not engage in an analysis of aiding and abetting, which requires, *inter alia*, a specific intent to facilitate the commission of a crime by another and the requisite intent of the underlying substantive offense, both of which, arguably, would not be present in the state employee implementing a state regulatory scheme. *Conant v. Walters,* 309 F. 3d 629, 635 (9th Cir. 2002).

The Court ultimately relied on obstacle preemption to conclude that the City's permit scheme is preempted where it authorized, rather than decriminalized, the possession and cultivation of medical marijuana. In contrast, the Court, in footnote 30, acknowledged that "the MMPA sometimes speaks in the language of authorization, when it appears to mean only decriminalization . . . [and that] any preemption analysis should focus on the purposes and effects of the provisions of the MMPA, not merely the language used." The City was determining which collectives were permissible and which were not by requiring collectives to meet certain conditions and pay fees. Possession of a City permit would allow certain collectives to operate, while those without permits could not operate; thus, the Court concluded that the permit was equivalent to authorization.

The Court was also concerned with the City's application and renewal fees, and the fact a lottery was held to determine which collectives might ultimately be granted a permit. Such action, the Court concluded, authorized operation and was preempted. In light of this reasoning, the Court placed "some weight" on a February 1, 2011, letter issued by the U.S. Attorney for the Northern District of California to the Oakland City Attorney regarding that city's consideration of a licensing scheme for medical marijuana. The letter explained, "Congress placed marijuana in Schedule I of the Controlled Substance Act (CSA) and, as such, growing, distributing, and possessing marijuana in any capacity, other than as part of a federally authorized research program, is a violation of federal law regardless of state laws permitting such activities." Still, the Court stopped short of rendering any opinion as to federal preemption of the MMPA, but instead focused on provisions of the City's ordinance.

The Court went on to observe that certain provisions of the ordinance which simply identified prohibited conduct without regard to the issuance of a permit, such as closing hours, age restrictions, and no alcohol consumption on premises, imposed limitations on collectives, and thus did not authorize activity prohibited by the CSA. Further locational restrictions, imposed as a limitation on the operation of collectives, would not be federally preempted. However, the latter restrictions appeared as part of the permit process and the Court left it to the trial court on remand to interpret whether those provisions could stand alone.

QUESTIONS

1. Can a city require a permit as a condition of operating a collective in that city?

No. The *Pack* Court viewed the issuance of a permit as authorization to operate a collective, and such authorization is an obstacle to enforcement of the CSA, and therefore preempted. The Court in two footnotes (18 and 31) points to the practical result of the City's ordinance: because of the fees, alarm and other equipment installation requirements, and locational restrictions, the only kind of collectives allowed would be "large dispensaries that require patients to complete a form summarily designating the business owner as their primary caregiver and offer marijuana in exchange for cash 'donations'-the precise type of dispensary believed by the Attorney General likely to be in violation of California law." The Court contrasts this commercial model with a

small collective "of four patients and/or caregivers growing a few dozen plants," suggesting that such an enterprise is more keeping with state law. The Court notes that the large-scale dispensary is disapproved both in the Attorney General Guidelines and the U.S. Attorney Letters. However, given the Court's conclusion that it is the City's authorization that triggers federal preemption, it is unclear how a city could "permit" even a small collective, even though this Court seemed inclined to view small collectives differently.

2. Can a city impose a business tax on collectives?

Taxes were not at issue in *Pack*. However, cities that impose a higher tax rate specifically on medical marijuana collectives may want to evaluate that practice in light of *Pack*. The Court references the Attorney General Guidelines' confirmation of the state's taxation of medical marijuana transactions and requirement that those engaging in such transactions obtain a seller's permit. This, according to the Guidelines, does not allow "unlawful sales" but rather merely "provides a way to remit" any taxes due. (Footnote 11.) To the extent that a local tax on collectives is part of a permitting scheme, it would appear to be preempted under *Pack*. Also, to the extent that such taxation could be viewed as encouraging large-scale commercial operations, *Pack*'s analysis suggests that obstacle preemption may be found.

3. Can a city impose zoning restrictions?

Maybe. The Court does not address zoning separately, nor does it analyze any cases which discuss the traditional power of cities to zone. In providing the background for the case, the Court says "The city's ordinance not only restricts the location of medical marijuana collectives, (citations omitted), but also regulates their operation by means of a permit system (citations omitted)." The Court notes that there is a distinction between not making an activity unlawful, and making the activity lawful. Further, the Court remanded the locational restrictions to the trial court to determine whether they could be interpreted to stand apart from the permit process. "These restrictions, imposed strictly as a limitation on the operation of medical marijuana collectives in the City, would not be federally preempted." It appears that cities can tell collectives where they can't be, but not where they can be.

4. Can a city include collectives and dispensaries as an "allowed" or "enumerated" land use in its code?

Probably not. Although *Pack* does not directly address this issue, its analysis logically seems to disfavor any authorization or allowance of collectives, even if not in the form of permits. If city action "goes beyond decriminalization into authorization" of conduct prohibited by the CSA, it likely runs afoul of *Pack*.

Nowhere in the opinion does the Court address the Tenth Amendment to the U.S. Constitution, which provides that all powers not delegated by the U.S. Constitution to the United States nor prohibited by it to the states are reserved to the states or the people; the authority to make land use regulations is based on this reservation of power. 9 Miller & Starr, Cal Real Estate section

25.2 (3d ed. 2009). In California, zoning is a local matter exercised by the cities pursuant to the police powers set forth in article XI, section 7 of the California Constitution. *Id.*

Pack also did not address California Government Code section 37100, which provides: "The legislative body [of a city] may pass ordinances not in conflict with the Constitution and laws of the State or the United States." This statute is clearly consistent with the Court's decision and appears to reinforce that an ordinance which permits conduct in violation of either federal or state law cannot stand.

5. Can a city impose public safety-related restrictions or prohibitions?

Probably. The Court noted that there are provisions of the City's ordinance that identified prohibited conduct without regard to the issuance of permits. Thus, it appears that making certain conduct unlawful is probably not preempted by the federal CSA.

6. Is there a true split in authority with the Fourth District Court of Appeal such that a city could cautiously ignore *Pack*?

When opinions of the Court of Appeal conflict, the trial court must apply its own wisdom to the matter and choose between the opinions. *McCallum v. McCallum*, 190 Cal. App. 3d 308, 315, fn. 4, (1987).

> As a practical matter, a superior court ordinarily will follow an appellate opinion emanating from its own district even though it is not bound to do so. Superior courts in other appellate districts may pick and choose between conflicting lines of authority. This dilemma will endure until the Supreme Court resolves the conflict, or the Legislature clears up the uncertainty by legislation.

Ibid.

The *Pack* Court disagrees with what the Fourth District Court "implied" with respect to obstacle preemption in *Qualified Patients Ass'n v. City of Anaheim*, 187 Cal. App. 4th 734 (2010) and *County of San Diego v. San Diego NORML*, 165 Cal. App. 4th 798 (2008). In *Qualified Patients*, the Fourth District said:

> . . . a city's compliance with state law in the exercise of its regulatory, licensing, zoning, or other power with respect to the operation of medical marijuana dispensaries that meet state law requirements would not violate conflicting federal law. . . . [T]he fact that some individuals or collectives or cooperatives might choose to act in the absence of state criminal law in a way that violates federal law does not implicate the city in any such violation . . . governmental entities do not incur aider and abettor

> or direct liability by complying with their obligations under the state medical marijuana laws.

Id. at 759-760. This statement is at odds with the *Pack* Court at footnote 27, wherein the Court states that there may be an issue of city officials aiding, abetting or facilitating a violation of federal law when approving and issuing a permit. Further, the Fourth District rejected the argument that the MMPA, specifically Health and Safety Code section 11362.775 (providing immunity from certain drug related offenses for qualified patients, ID card holders, and primary caregivers who collectively and cooperatively associate to cultivate marijuana for medical purposes), is preempted under a theory of obstacle preemption.

Finally, the Fourth District in *County of San Diego* concluded that the state's identification card program was not preempted as an obstacle to the CSA because the CSA combats recreational drug use, and does not regulate a state's medical practices. *County* at 826-827. Although the Second and Fourth Districts analyzed the issue of obstacle preemption differently, the Fourth District was not confronted with a permitting scheme in either *County of San Diego* or *Qualified Patients*. Thus, it appears that no conflict presently exists with respect to whether cities may permit collectives.

7. If a city has already permitted collectives, what should it do?

Pack says the permit scheme is preempted. One view is that such ordinances are preempted, and thus no longer enforceable, in the same way that a city could not enforce, for example, an illegal lodging ordinance if a court ruled that ordinance unconstitutional. To the extent that, under this view, a permitting ordinance is "null and void" as a matter of law, there is case law which suggests otherwise. In *Travis v. County of Santa Cruz,* 33 Cal. 4th 757, 775-776 (2004), the state Supreme Court stated:

> Plaintiffs suggest that preemption by state law renders a local ordinance not only unenforceable but also 'null and void,' and that consequently in this case 'there is no applicable limitations period because there is essentially no ordinance.' Plaintiffs' claims would thus be timely whenever brought. Plaintiffs cite no authority for this approach, and we have discovered none. Nor does it appeal as a matter of logic. A preempted ordinance, while it may lack any legal effect or force, does not cease to exist; if it did cease to exist, any challenge to it would have no object.

Though *Travis* involved state preemption and the applicable statute of limitations, the Court's analysis is germane. Following its logic, a city council may decide to formally repeal an ordinance which permits or otherwise authorizes collectives or dispensaries based on preemption by federal law, rather than deem it null and void by operation of law. Such an ordinance could expressly provide that any permits issued under the repealed ordinance are void and without legal force or effect.

Another view is that each individual issued permit must be revoked, with notice, so that the permitee is provided due process. Usually this involves some type of appeal hearing. A possibility to consider under this scenario, however, is: What if the hearing body or officer restores the permit to the collective? While such a decision would be inconsistent with *Pack*, collectives would likely argue that, under state law, they have a "right" to exist under the CUA and MMPA. In fact, such arguments are likely to be made regardless of the mechanism a city uses to "disallow" permitted collectives based on the *Pack* ruling. While a court would probably reject such arguments, based on abundant case law finding that state law does not require cities to allow collectives or dispensaries, cities should certainly anticipate them. *See City of Claremont v. Kruse*, 177 Cal. App. 4th 1153 (2009), *City of Corona v. Naulls*, 166 Cal. App. 4th 418 (2008), *County of Los Angeles v. Hill*, 192 Cal. App. 4th 861 (2011).

8. What should a city do with existing zoning provisions?

The city should review the language used to create the zoning restrictions. It appears under *Pack* that if the restrictions operate as a limitation, those restrictions are not preempted. If the zoning provisions are written in a manner that authorizes or allows or permits collectives, they are likely preempted. The main body of the Court's opinion focuses on limitation versus authorization, and seems to imply that the drafting of the right "prohibitory" language will save such ordinances from a preemption problem. However, the Court also says, in footnote 30, that any preemption analysis should focus on the purposes and effect of the provisions, not merely the language used. In that footnote, the Court is discussing the MMPA and how the MMPA sometimes speaks in authorization language when it appears to mean only decriminalization. If the language in your city's ordinance really means only decriminalization, you may be able to use this footnote. However, a similar argument was made as to the "permit" in the *Pack* case, and that argument was rejected by the Court, as the only way one could operate was with a permit. Therefore, it was, again, authorization and not decriminalization.

9. Does *Pack* apply to Charter cities?

Pack says "yes" (footnote 24). *Pack* comes to this conclusion by noting that regulation of medical marijuana is a matter of state and national interest.

10. If a city is contemplating regulation or has started the process of considering an ordinance to permit collectives, what should it do?

The city should re-evaluate its position and not move forward. The city should consider limitations, rather than a permitting scheme. (But see question and answer number six.)

Opinion: http://www.courtinfo.ca.gov/opinions/documents/B228781.PDF
Long Beach Ordinance:http://www.longbeach.gov/civica/filebank/blobdload.asp?BlobID=30310

From: Matthew Pappas <mtthwppps1@gmail.com>
To: undisclosed-recipients:;
Date: 12/30/2011 03:29 PM
Subject: Your City Attorney's Position

Your City Attorney spoke on December 13 expressing that because of the Pack decision, as a party, Long Beach HAD to ban collectives.

Note that a PRELIMINARY INJUNCTION requires a finding of irreparable harm. The trial court, Judge Madden, denied the preliminary injunction in November 2010. Thereafter, the patients sought a writ of mandamus -- an order from the appellate court ORDERING the trial court to issue the preliminary injunction. THE IRREPARABLE HARM WAS THE CLOSURE OF COLLECTIVES UNDER 5.87 THAT WOULD CAUSE INJURY TO RYAN PACK AND ANTHONY GAYLE! The appellate court GRANTED THE PETITION FOR WRIT OF MANDAMUS. The IRREPARABLE HARM in the WRIT PETITION was the improper CLOSURE of collectives through 5.87 -- the permitting provisions of which are UNLAWFUL.

Now, let's analyze -- the appellate court GRANTED THE WRIT to PREVENT the IRREPARABLE HARM (i.e. the CLOSURE OF THE COLLECTIVES THAT WOULD THEN CAUSE THE PATIENTS TO HAVE SERIOUS PROBLEMS). Do you really think a BAN is what the court requires of you?

You'd better have outside counsel review the matter. You're on notice. You have the law now. Make the right decision. You're interfering with the judicial process by passing a ban. Be ready for additional lawsuits.

--

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November 8, 2011

VIA FACSIMILE AND E-MAIL

Ms. Kendra L. Carney
Deputy Long Beach City Attorney
333 W. Ocean Blvd, 11th Floor
Long Beach, CA 90802-4664

Re: *City of Long Beach v. 1 A.M. Collective, et al.*
L.A.S.C. #: NC055752

Dear Kendra:

As you know, I wrote to you on October 18, 2011 following our discussion and subsequent phone conversation on October 13, 2011. To date, I have had no response from your office.

I have provided to you and to Mr. Shannon the clear legal basis and arguments showing that a ban of all medical marijuana collectives in Long Beach is impermissible under articles 2 and 11 of the California Constitution and other provisions of the law. Furthermore, I have explained that a complete ban violates Title 2 of the *Americans with Disabilities Act* (42 U.S.C. §§ 12101, *et seq*) as well as a host of additional laws designed to protect seriously ill and disabled citizens.

I was notified yesterday that the published agenda for the November 15, 2011 Long Beach City Council meeting includes the apparent first reading of and planned vote by the Council on emergency legislation that will, despite absolute legal authority to the contrary, "ban" all patient collective groups in Long Beach.

Since July, 2010, I have sent numerous letters to Mr. Shannon asking him to consider the needs of the many cancer, AIDS, disabled, seriously ill, and permanently injured patients for which the People of the State of California provided for in the *Compassionate Use Act*. I have endured *de facto* slanderous remarks, "spin," and absolutely inappropriate behavior in a City bent on retaliation and what I believe is illegal behavior. The utter contempt for the voters, for Long Beach citizens, for taxpayers, and for the seriously ill and disabled by the Long Beach City Council is utterly outrageous.

I have repeatedly told you that Anthony Gayle, one of the patient plaintiffs in the *Pack* case, suffers from renal failure. He must have dialysis three (3) times a week. His serious illness has caused cardiac damage. He's had open heart surgery. His doctors have told him traditional opiate medications are contraindicated for his condition. **He is 25-years-old. It is very likely his illness is terminal.** He can't drive, does not have a car, and is on disability because **he can't work**. He has a young daughter. He certainly cannot cultivate medical marijuana on his own. He has no means of effective transportation. Instead of Oxycontin or Percocet or Demerol or Propofol, medical marijuana works for Tony.

When the City Council passes its ban next Tuesday, would you please ask Mayor Foster and the members of the City Council to visit Mr. Gayle? -- Because Tony isn't going to be able to endure a council meeting in his condition. Can you ask them to take a little bit of time out of their day to talk to Tony, a seriously ill citizen of Long Beach who is likely terminal, and **explain to him why they are taking away his medication?** When you **ban** collectives, you're taking away his medication. In reality – in the real world -- you are taking away the medication that works for him and that his licensed California doctor has recommended. Tony Gayle is, without a doubt, one of the "***all seriously ill Californians***" that the People of the State of California have **unquestionably provided the "right to obtain"** medical marijuana for in Ca. Health and Safety §§ 11362.5(B)(1)(a) and 11362.5(B)(1)(c).

When the state's voters used the terms "*right to obtain*" and "*all seriously ill*" Californians in the *Compassionate Use Act*, they did **not** intend to give Mr. Shannon, Mr. Sund, Detective Strohman, Mayor Foster, Mayor Foster's wife **or any member of the Long Beach City Council** the right to pass a law that **excludes** Tony Gayle from having the system, as a "*seriously ill Californian,*" California implemented under 11362.5(B)(1)(c) of the *Compassionate Use Act*. I still am not sure where many city council members have gleaned their bias and opinions from in respect to medical marijuana patients, including Tony Gayle, and the idea that a "ban" against the many seriously ill and disabled citizens in Long Beach is O.K. considering state law and the *ADA*?

Perhaps city officials and elected representatives rely on local press articles and reports to learn about patients as well as for the basis for their decisions. Many articles in the press are completely inaccurate (i.e. the article that characterized Tony Gayle and Ryan Pack as "owners" of collectives; the report that the City has already repealed 5.87 and banned all collectives; the article that included a quote from an improperly operating "dispensary" owner in which he appeared to be a "legal expert" when (for self-serving reasons) he stated that the *Pack* case means the City has no power to regulate collectives; *or* the article that misquoted a federal judge who later questioned why he was quoted as finding "there is no medical value to marijuana" when he **never** made such a finding.) Often, the inaccuracies in the press are a direct

result of the City's effort to lead "by the nose" the easily offended and often retaliatory reporters to the "facts" and "conclusions" the City wants reported. To be fair, there are reporters[1] who investigate issues rather than reprint blurbs prepared by the City's public relations folks.

As you know, the City has been served with the cross-complaint filed in *City of Long Beach v. 562 Collective*, L.A.S.C. No. NC055751. That cross-action includes, *inter alia,* claims for civil violation of the *Racketeer Influenced and Corrupt Organizations Act*, 42 U.S.C. § 1983, and Ca. Civil Code § 52. There is evidence of violation of 18 U.S.C. § 201 along with what is very likely related violations of 18 U.S.C. § 1956.

I have included with this letter the October 19, 2010 declaration of Larry Parks. In it, Mr. Park states that, "[S]everal weeks ago, I was contacted by attorney Paul Violas. Mr. Violas told me he was aware that I was a manager of a medical marijuana patient cooperative group in Long Beach, California. He told me that **he had the ability to get 'any Long Beach medical marijuana permit application approved'** ... Mr. Violas told me ... he would be able to 'guarantee' acceptance of my patient cooperative group's application ... [Violas provided] me with 'inside information' about what was going on in Long Beach city hall. He appeared to know about things that would be happening in city council meetings before those things would actually become public... **During [a] later call from Mr. Violas, he told me that he would need ... money to be committed to city projects or programs ... in order to make sure city officials would approve my patient group's permit** ... [Violas] said 'all of his clients, **the city does not bother them.**'" Since filing the underlying *Pack v. Long Beach* case at the end of August, 2010, I have been informed by a number of people that offers similar to the one made by Mr. Violas described in Mr. Park's October 19, 2010 declaration have been made to other patient collectives.

During a December 10, 2010 Long Beach council meeting, Councilman Steven Neal requested that the definition in 5.87 of "*parks*" be changed to benefit one particular collective, *Belmont Shore Natural Care* ("*Belmont Shore Collective*"). As originally proposed to the City Council on December 14, 2010, the "*park*" distance amendment would have **eliminated** the *Belmont Shore Collective* as it was located within 1,000 feet of a beach (which by definition is a "*park*" under Chapter 21.35 of the *Long Beach Municipal Code*). It is clear that this was the objective of Councilman Neal's proposed change since his request was to "exempt" Alamitos Beach, which, again, could ***only*** have benefited the *Belmont Shore Collective*. At the suggestion of City staff, the amendment was broadened to include all beaches, but the effect

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1 *e.g.* Gregg Moore, *Long Beach Post*; Jonathan Van Dyke, *Gazette*; and others.

was the same -- one (1) collective was removed from the new 1,000 foot buffer zone, the *BelmontShore Collective*. It was clear from the record that the amendment to exclude beaches from the definition of "parks" was designed to relieve a particular property and collective from the newly proposed restrictions for the benefit of a particular property and interested party.

During investigation related to the Chapter 5.87 related cases, I was informed that an agent of the *Federal Bureau of Investigation* visited a patient collective in February, 2011 and spoke with that collective's managing patient. Apparently, the federal agent was gathering evidence related to City officials, Chapter 5.87, and the "permit lottery" process. Our investigation uncovered that the federal agent did not order the collective to shut down or cease operations.

Our investigation has further uncovered evidence showing that, on November 8, 2011, police agencies ***excluding*** the Long Beach Police Department raided the *Belmont Shore Collective* in Long Beach. Curiously, the LBPD appears to have been excluded from the raid and closure of that "dispensary" even though the raid took place in Long Beach proper.

The City has noticed motions to relate and transfer cases a minimum of three (3) times. At least one of those motions was brought *ex parte* after the City's noticed motion for the same issue was heard just a month prior and denied. The City began the process of bringing motions in *Pack v. City of Long Beach*, L.A.S.C. No. NC055010, in clear violation of the November 24, 2010 appellate court order staying that case. It has wasted countless hours of time and caused various parties to incur thousands of dollars in costs for participants in a host of cases it attempted to "rope into" NC055010 while continuously, repeatedly, and flagrantly violating the November 24, 2010 order.

Long Beach Police Officer David Strohman, who may himself be involved in illegal activity, has made slanderous remarks about patients and patient caregivers including the outlandish statement that a managing member of a Long Beach collective illegally makes "$100,000.00 per month." This statement was published to patients during a LBPD raid on a Long Beach patient group. After the raid, the Los Angeles Superior Court deemed the LBPD's action to be without probable cause, without a warrant, without exigent circumstances, and illegal. In fact, the managing patient Mr. Strohman slandered during the raid actually drives a high-mileage used vehicle, lives month-to-month, rents a home, and makes less than 4% of the $100,000 monthly amount irresponsibly published by Mr. Strohman.

For whatever reason, I believe the City is convinced the Long Beach courts will not issue an order enjoining its bad behavior. It is **clear** that the City's quickly contrived and ill-prepared August *ex parte* motion to relate and transfer cases just days prior to a critical hearing

in one of the "*BC*" (central) cases was designed to ensure that case was transferred to the Long Beach courthouse. While I do not want to think the courts in Long Beach would not fairly consider the issues, the fact that the Second District Court of Appeal, when granting the extraordinary writ of mandamus in *Pack v. Superior Court* (B228781), stated there was a "100% chance" the Petitioners would prevail on the merits in that case perhaps shows why the City is absolutely bent on ensuring all cases are heard in the Long Beach courthouse.

The outrageous stereotypes Mr. Sund, Mr. Shannon, the Mayor, and a variety of city council members have adopted regarding patients are wrong. The evidence we've gathered shows that Officer Strohman and other City officials, including Erik Sund, have **intentionally**, in an effort to create public opposition to patient collectives, spread false information about patients and patient groups to exacerbate negative stereotypes. That same as well as other evidence indicates they have, in concert with other City employees and officials, subverted information in an effort to create City Council member opposition to collectives. In fact, the many illegal, coercive, and calculated actions the evidence tends to show have been taken by various City employees and officials appears to relate to the financial solicitations and "City Hall connections" Mr. Parks references in his October 19, 2010 declaration.

For hypothetical purposes, let's pretend the Mayor of Long Beach is not Bob Foster, but rather "Bob Ignorant." In the hypothetical, I'll characterize how "Bob Ignorant" thinks. To start, no matter how Bob spins it, he looks like a pompous ass. It is clear that Bob absolutely knows the medical marijuana laws are only supposed to provide for patients. But he thinks most of the so-called "patients" using marijuana are hiding behind the "medical" aspect of the law. He believes most of them are, for example, what he would deem the "Occupy Long Beach" "*type*." On an outward basis, Bob tells folks he support patients. But when he's having a drink with people, he'll periodically crack a medical "pot-head" joke while rolling his eyes when the subject comes up. Bob's wife "wears the pants" in the family. Bob wants to think he does and so comes across as having a "Napoleon" complex when he's out of her direct control. Bob's wife is really anti-marijuana. She drives her nice car, goes to her social clubs, and, like the women in the book and movie *The Help*, closes her eyes to the plight of people like Tony Gayle. Instead, she makes every effort to influence the position Bob takes in respect to medical marijuana and is proud she was able to "tighten" city medical marijuana restrictions by urging and advocating for the January, 2011 thousand foot "park" restriction. Bob and his wife are concerned about social position and future political office. Bob makes sure he "greases" the wheel with folks who have the ability to help him get to where he wants to go politically. Since he knows most, if not all, so-called "medical marijuana *patients* (better yet, '*pot-heads*')" are really just worthless drug addicts, he can satisfy his wife's need to influence city business by simply letting her act on her bias against medical marijuana.

What happens when someone like "Bob Ignorant" becomes mayor? Are seriously ill Californians like Tony Gayle ignored? Does Bob pray he never has to meet a likely terminal 25-year-old patient like Tony Gayle who has an arm that is ravaged by constant dialysis and who looks like he's very sick? Does his wife's inappropriate stereotypes about so-called "medical marijuana patients" (those *"pot-heads"*) with cancer, AIDS, and other serious illnesses achieve a platform that ends up hurting patients? And, "how DARE anyone EVER challenge a "good law" like Chapter 5.87! Those damn patients should just put up and shut up because they're lucky to have ANY law considering they're all a bunch of '*pot-heads*'!"

You're hurting Tony Gayle, Kendra. You are acting as an instrument for these people. I know that is NOT you. I've had a chance to talk to you and, albeit on a limited basis, discuss some of the issues. At least right now, the issue for these patients isn't about you and it certainly isn't about me. I don't make very much money, Kendra. My car was repossessed last month. I **don't** do this for the MONEY and I **don't** USE marijuana. But my 19-year-old daughter was assaulted and seriously injured. She almost died. She was in a coma for several weeks. I've included some pictures of when she was in the hospital and of the scar from the emergency brain surgery she had to have after she was attacked. The doctors prescribed her opiate medications after the assault. They made her feel ill, constipated, and she began feeling dependent on them. With her doctor's recommendation, she used medical marijuana and did not refill the opiate prescriptions. It worked. It helped her sleep. It was effective for a number of the damage related issues that resulted from the assault and emergency brain surgery.

When someone in Mayor Foster's family or in the families of the various city council members who have adopted inappropriate stereotypes about medical marijuana is seriously injured or diagnosed with cancer, AIDS, or serious illness, maybe they'll say, "well, despite her cancer, Grandma can grow her own marijuana medication because by banning all non-profit patient collectives, Long Beach is looking out for healthy citizens." Or maybe they'll say, "well, even though Grandma's losing a bunch of weight and having serious nausea from chemo, marijuana isn't <u>really</u> a medicine, so we'll keep her on the opiates." Or maybe, after figuring out that it takes a number of weeks and some degree of expertise to grow medical cannabis, perhaps they'll say, "well, its O.K. that we have to drive to an industrial area of less-safe *Timbuktu*, which allows medical marijuana collectives, because we were right in banning all collectives since they really only cater to 'pot-heads.'" I'm fairly certain they'll think, "after all, when that darn Tony Gayle – the guy with kidney failure – and that Ryan Pack – the guy hit by a car while riding his bike -- had the audacity to challenge our very fair and equitable Chapter 5.87 law it was appropriate to show citizens that if they question city government, they will be taught a lesson." Given how these folks think, probably they'll also say, "and since I'm running for state office now, I want to make sure I establish a record that citizens are going to mind the laws passed no matter whether those laws are illegal or discriminatory, otherwise my power as a government official is threatened."

I don't know, Kendra, maybe Chapter 5.87 was a fantastic, fair, and thoughtful law passed for the seriously ill and disabled patients who are citizens of Long Beach. Do you think it was? Or, maybe the patients just should have been happy that they could *even* get a law, no matter how onerous or outrageous, because "beggars can't be choosers?" On the other hand, maybe citizens should challenge bad laws like 5.87?

Tony Gayle and patients like him – patients facing terminal illness or permanent disability – they are the people who pay the outrageous non-refundable lottery and permit fees in laws like 5.87. Many of those patients, like Tony, are on disability or welfare because they are dealing with terrible illness or disability. And let's face it, Kendra, despite the fact that Strohman and his buddies have adopted a "*Miami Vice*" stereotype for all of the managing patients of collectives (maybe Strohman and his fellow officers dream of a role in *Hawaii Five-O* or *CSI* or better yet, the *Simpsons*), **none** of the managing patient members I've met of Long Beach collectives (other than *Belmont Shore Collective* or the others that appear to have adopted the *As Seen on T.V.* California "*How To Butter Up City Officials Guide*" apparently suggested by other attorneys) drive Ferraris or live in large homes they own in gated communities. In fact, I don't think any of them have a car that is less than five years old and have less than 100,000 miles on them, at least three-quarters of them struggle monthly to just pay rent for the apartments or houses they live in with their families, and I'd accurately guess that none of them make even a quarter of what your boss, Bob Shannon, is paid by the City each year. Some make less annually than Bob Shannon makes in a month (the City pays Bob around $22,500.00 per month from what I've gathered).

I *kind* of guess that, about a week ago, I wasn't *that* surprised to hear a rumor about what folks had deemed a possible "Strohman Surprise" – an event apparently set to take place on November 15. Word was, Strohman and Erik (maybe you joined them) got together the *umpteenth* time to formulate strategy in regard to closing down all patient collectives (all except their friends). Apparently, they'd figured out they have "enforcement and prosecutorial discretion" so even if a "ban" was passed, they could bypass *Belmont Shore Collective* and others who have not endured **any** enforcement over the last year (likely those that have followed the "*How To Butter Up City Officials Guide*") by simply choosing not to cite or enforce in respect to those folks. When the City Council Agenda for November 15 was published, the rumor and innuendo surrounding the "Strohman Surprise" went away.

Before I finish by giving notice of the *ex parte* for next Tuesday, let me say that you folks really need to come down off of "Pompous Rock." Maybe the unbiased press will report that I'm on "Pompous Rock." I guess if they knew that, like most of the managing patients I referred to earlier, I make quite a bit less annually than you do. Actually, if I'm lucky, I earn *maybe* two (2) months of Bob Shannon's taxpayer paid salary annually. I guess if they knew that, perhaps they'd understand I'm actually on "Poor Rock." Also, I am **not** doing this work for the marijuana because -- **I don't use marijuana**. But, in the unfortunate case I am

diagnosed with some deadly disease for which it works to alleviate pain or symptoms, I'd like to have the option of medical marijuana available if it turns out it would work for me. However, I don't have a medical need for marijuana and so I don't use it.

I guess when, like you guys, you're on "Pompous Rock," *you* don't know that you don't know better than the *voters* of California. Nor do you seem to have any idea of the plight faced by patients. While you have maybe eighty or more pharmacies distributing dangerous drugs along with cigarettes and alcohol plastered around the City, because of stereotypes and bias, you simply "ban" all medical marijuana collectives? Where's the beef? And you do that AFTER the *Rand* study showed crime goes UP when collectives are closed and despite evidence that, in the case of MOST collectives, nothing negative occurs? Maybe everyone in your group, including the council folks, should watch the movies "*The Music Within*" and "*The Help.*" The fact is medical marijuana collectives that operate in accordance with the law are simply not the danger you folks make them out to be.

I admit I am probably coming across a bit "haggard" and perhaps a bit "tongue and cheek." However, just to be fair, Kendra, I hope you'll at least admit that in the many prior letters I've sent and requests I've made to discuss settlement, I have been professional, patient, and less "cynical." Over the last year, it seems Long Beach is simply a "wall unwilling to budge" – it does not listen to, discuss, or consider anything that apparently doesn't line pockets – it's just how it appears from this side, Kendra.

On Tuesday, November 15, 2011 at 8:30 a.m. in case NC055072, I'm going to apply *ex parte* for an order prohibiting the council from implementing a ban. I'll apply in Dept. B, Judge Madden, Los Angeles Superior Court, South District, 415 W. Ocean Blvd., Long Beach, CA 90802. Pursuant to our stipulation several months ago when we agreed to accept service by fax and e-mail in NC055751 and NC055752, I'm faxing and emailing this letter to you. I'd ask you to call and discuss settlement, but that ain't going to happen. I've asked so many times already. I guess you, Erik, Bob, the council, and the "*Anti-Patient, Anti-Medical-Marijuana*" Long Beach "team" will just continue to spend away taxpayer dollars in spite of the law, facts, and the oft life-shortened plight faced daily by patients who are citizens of Long Beach.

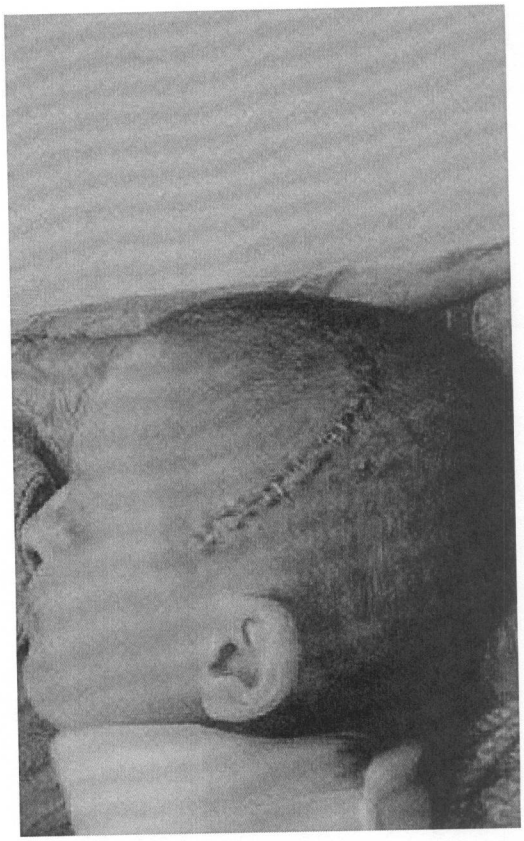
See you next Tuesday. Have a good weekend -

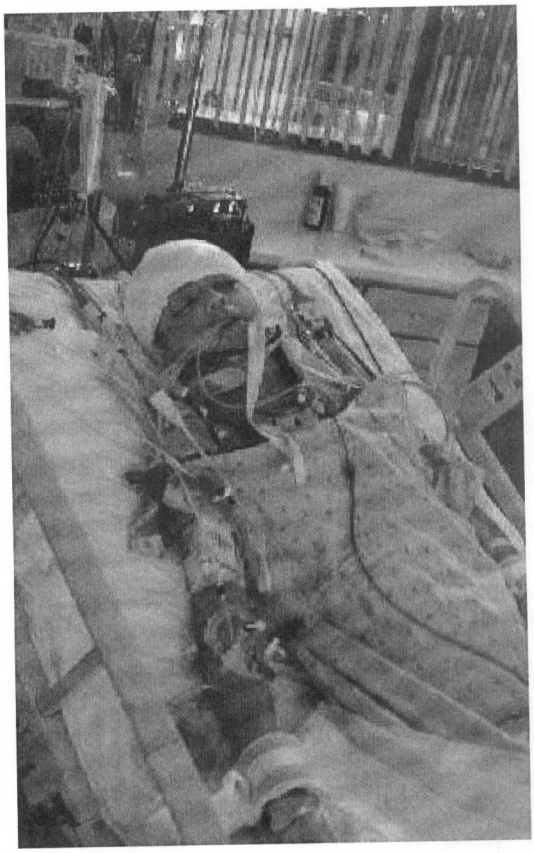
Very truly yours,

Matthew Pappas

MSP:jm

encl.





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You'd better have outside counsel review the matter. You're on notice. You have the law now. Make the right decision. You're interfering with the judicial process by passing a ban. Be ready for additional lawsuits.

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1-10-12

UB-15

Dear Long Beach Mayor and City Council,

RE: MEDICAL MARIJUANA DISPENSARIES – Green Ribbon Task Force

Like it or not, the tide has turned dramatically on the use of marijuana—medical or otherwise. Credible news outlets and internet sources are exposing the despotic governmental suppression of scientific studies that have heartening promise in hemp and cannabis-based applications. As the citizenry becomes better educated, their enlightenment defines itself at the polls.

In the last election, California Prop 19 legalizing marijuana lost by a slim margin. This was in large part because of the intense propagandizing and fear mongering of the pharmaceuticals, prison guard unions (vested in jobs) and tobacco companies—just follow the $$$$. In Long Beach City, it handily won. Presidential candidate Ron Paul's approval rate is gaining exponentially due to his irresistible stance on lessening governmental interference on private lives.

As we speak, several initiatives are gathering momentum and signatures to legalize marijuana. They have gained popularity especially in the light of city officials, police, prosecutors, and even judges ignoring the will of the people as in California Proposition 215. Called the Compassionate Use Act, Prop 215 sought to facilitate people who need marijuana as medicine. According to its provisions, the State should have stepped up to the plate in providing patients with the herbal medicine that eases their suffering.

The dispensaries have filled in where the State has negligently and sorrowfully failed. In many cases, it is not practical or possible for sick/disabled people to grow their own. More than likely, a ban on dispensaries would only drive these vulnerable citizens to the streets and put them at extreme risk buying from drug dealers. The product may be laced with an addictive substance or may be tainted with deadly molds or other pathogens that would be especially devastating to those with immune-compromised illnesses such as AIDS.

Forcing them to buy from gang-affiliated dispensers would only fund and enable larger and more powerful cartels. This predictably results in more crime and turf wars where innocent bystanders may be gunned down. With an already-drained police department and a dramatic spike in shootings over the past few months, is empowering gangs/cartels a wise path to follow?

It is imperative that this City Council find a viable alternative to outright banning of medical marijuana dispensaries, not only for the patients that use this medicine now but for all citizens that may one day need it to treat their pain and/or medical condition. Death is a certainty of life; suffering is often a choice. While the Americans with Disabilities Act (ADA) stance on this subject is pending, the spirit of the ADA should not be undermined by draconian political decisions.

This is a golden opportunity for the Council to appoint a community-based "Green-Ribbon" Task Force to create a more democratically-generated solution. This committee should include representatives from the City and the citizenry. The purpose/mission of this assemblage should be to craft a more equitable ordinance that sensibly regulates medical marijuana dispensaries and allows reasonable access/accommodation to the sick and disabled.

This committee should include a representative from the Health Department (Michael Johnson?)--where this matter belongs, Police Department (Commander Josef Levy?), City Attorney (Michael Mais?), Prosecutor, Finance Department (not Eric Sund), patient advocates (Diana Lejins, Advocates for Disability Rights/Bill Britt, Association of Patient Advocates?), dispensary representatives (Carl Kemp/Rich Brizendine?), Science/Environment/Neighborhoods (Joan Greenwood?), and whatever affiliates that the Council deems appropriate. While I believe that the above names would be beneficial because of their experience/expertise, they are only suggestions. A time period of 90 days would be reasonable.

In the interim, a partial ban that would only apply to new dispensaries might be more sensible course of action. Those dispensaries already in existence would be well advised to adhere as much as possible to the regulations set forth in previous legislation until Council has taken action on a newer, compliant and enforceable ordinance.

Respectfully submitted,

Diana Lejins
Advocates for Disability Rights / Past Chair LB Citizens Advisory Commission on Disabilities
POB 15027, LB 90815

Fw: Marijuana doesn't harm lungs.....
diana lejins
to:
Suja Lowenthal, Patrick ODonnell, Gerrie Schipske, Dee Andrews, James Johnson, Rae Gabelich, Steve Neal, Gary DeLong, Bob Foster, Robert Garcia
01/11/2012 06:24 PM
Cc:
Nancy Muth
Show Details

NEWS FLASH:

CHICAGO -- Smoking a joint once a week or a bit more apparently doesn't harm the lungs, suggests a 20-year study that bolsters evidence that marijuana doesn't do the kind of damage tobacco does.

The results, from one of the largest and longest studies on the health effects of marijuana, are hazier for heavy users – those who smoke two or more joints daily for several years. The data suggest that using marijuana that often might cause a decline in lung function, but there weren't enough heavy users among the 5,000 young adults in the study to draw firm conclusions.

Still, the authors recommended "caution and moderation when marijuana use is considered."
Marijuana is an illegal drug under federal law although some states allow its use for medical purposes.

The study by researchers at the University of California, San Francisco, and the University of Alabama at Birmingham was released Tuesday by the Journal of the American Medical Association.

The findings echo results in some smaller studies that showed while marijuana contains some of the same toxic chemicals as tobacco, it does not carry the same risks for lung disease.

It's not clear why that is so, but it's possible that the main active ingredient in marijuana, a chemical known as THC, makes the difference. THC causes the "high" that users feel. It also helps fight inflammation and may counteract the effects of more irritating chemicals in the drug, said Dr. Donald Tashkin, a marijuana researcher and an emeritus professor of medicine at the University of California, Los Angeles. Tashkin was not involved in the new study.

Study co-author Dr. Stefan Kertesz said there are other aspects of marijuana that may help explain the results.
Unlike cigarette smokers, marijuana users tend to breathe in deeply when they inhale a joint, which some researchers think might strengthen lung tissue. But the common lung function tests used in the study require the same kind of deep breathing that marijuana smokers are used to, so their good test results might partly reflect lots of practice, said Kertesz, a drug abuse researcher and preventive medicine specialist at the Alabama university.

The study authors analyzed data from participants in a 20-year federally funded health study in young adults that began in 1985. Their analysis was funded by the National Institute on Drug Abuse.

The study randomly enrolled 5,115 men and women aged 18 through 30 in four cities: Birmingham, Chicago, Oakland, Calif., and Minneapolis. Roughly equal numbers of blacks and whites took part, but no other minorities. Participants were periodically asked about recent marijuana or cigarette use and had several lung function tests during the study.

Overall, about 37 percent reported at least occasional marijuana use, and most users also reported having smoked cigarettes; 17 percent of participants said they'd smoked cigarettes but not marijuana. Those results are similar to national estimates.

On average, cigarette users smoked about 9 cigarettes daily, while average marijuana use was only a joint or two a few times a month – typical for U.S. marijuana users, Kertesz said.
The authors calculated the effects of tobacco and marijuana separately, both in people who used only one or the other, and in people who used both. They also considered other factors that could influence lung function, including air pollution in cities studied.

The analyses showed pot didn't appear to harm lung function, but cigarettes did. Cigarette smokers' test scores worsened steadily during the study. Smoking marijuana as often as one joint daily for seven years, or one joint weekly for 20 years was not linked with worse scores. Very few study participants smoked more often than that.

Like cigarette smokers, marijuana users can develop throat irritation and coughs, but the study didn't focus on those. It also didn't examine lung cancer, but other studies haven't found any definitive link between marijuana use and cancer.