

Fwd: Medical cannabis ordinance  
Carl Kemp  
to:  
Jonda Matrone  
03/16/2010 06:44 PM  
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Thank you

Begin forwarded message:

**From:** "Don Duncan" <[don@safeaccessnow.org](mailto:don@safeaccessnow.org)>  
**Date:** March 5, 2010 5:21:23 PM PST  
**To:** "'Carl Kemp'" <[carl@kemp-group.com](mailto:carl@kemp-group.com)>  
**Subject:** **FW: Medical cannabis ordinance**

Hello. I sent this to Councilmembers this afternoon. I am sorry I will not be available for individual meetings before Tuesday night. I am booked solid in LA.

Don

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**From:** Don Duncan [<mailto:don@safeaccessnow.org>]  
**Sent:** Friday, March 05, 2010 5:02 PM  
**To:** 'district7@longbeach.gov'  
**Subject:** Medical cannabis ordinance

Dear Councilmember Uranga,

The City of Long Beach is considering regulations for storefronts maintained by legal medical cannabis patients' associations. I am writing to help clarify issues related to the sales of cannabis inside the membership of a collective, the transportation of medicine, and the safety of well regulated collectives. It is my hope that you will consider this input when crafting the final version of your medical cannabis ordinance.

[Sales of Medical Cannabis Are Legal in a Collective](#)

Incremental reimbursements for the cost and service of providing medicine are legal, whether they are characterized as sales, over-the-counter sales, donations, or reimbursements. California Health and Safety Code Section 11362.775 states that qualified patients and their primary caregivers “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.” Thus, the possession (Section 11357), possession for sale (Section 11359), and cultivation of cannabis (Section 11358) within the context of a collective or cooperative medical cannabis association is lawful. This interpretation is consistent with the decisions in *County of Butte v. Superior Court of Butte County* (96 Cal.Rptr.3d 421), *People v. Newcomb et al.* (2009 WL 1589574), and *People v. Urziceanu* (2005, 132 Cal.App.4th 747, 785.)

Some law enforcement representatives will say that the decision in *People v. Mentch* (45 Cal.4th 274, 283) makes medical cannabis collectives or sales of medicine within their membership illegal. This is a clear misreading of the decision, which simply upholds a narrow definition of the term “Primary Caregiver” in Proposition 215. The ruling only concerns *an individual's* claim to be a Primary Caregiver under state law; it does not address the legality of patients' collectives and cooperatives. Applying *Mentch* to medical cannabis collectives, including those that maintain storefront facilities in Long Beach, is misguided and legally invalid.

### Transportation of Medical Cannabis is Legal

Transportation of medical cannabis is legal under state law. California Health and Safety Code Section 11362.765 grants patients or primary caregivers the right to transport medicine, and immunizes those who “associate... collectively or cooperatively.” The courts have interpreted this immunity more broadly than law enforcement. The Appellate Court holds that:

"The MMPA also added section 11362.775, providing that qualified patients who associate within the state in order collectively or cooperatively to cultivate marijuana for medical purposes will not be subject to state criminal sanctions. Section 11362.775 exempts qualified persons 'from criminal sanctions for possession for sale, transportation or furnishing marijuana, maintaining a location for unlawfully selling, giving away, or using controlled substances, managing a location for the storage, distribution of any controlled substance for sale, and the laws declaring the use of property for these purposes a nuisance.' (*People v. Urziceanu* (2005) 132 Cal.App.4th 747,

785.)"

Given that medical cannabis can be legally transported under state law, there is no rationale for requiring that it be cultivated inside Long Beach. Cannabis grown by collective members outside city limits may be lawfully transported from anywhere inside California.

### Regulated Medical Cannabis Collectives Are Safe

Some reports have suggested that storefront patients' associations are magnets for criminal activity or other behavior that is a problem for the community, but the experience of those cities with regulations says otherwise. Crime statistics and the accounts of local officials surveyed by Americans for Safe Access indicate that crime is actually reduced by the presence of a collective; and complaints from citizens and surrounding businesses are either negligible or are significantly reduced with the implementation of local regulations. In Oakland, where collectives have been licensed since 2004, City Administrator Barbara Killey, notes that "The areas around the dispensaries may be some of the most safest areas of Oakland now because of the level of security, surveillance, etc...since the ordinance passed."

I urge you to join dozens of cities and counties in California in adopting sensible regulations for medical cannabis collectives and cooperatives in Long Beach. In doing so, you will fulfill the voters' mandate in Proposition 215 "to implement a plan for the safe and affordable distribution of marijuana..." and help protect patients and the community.

Americans for Safe Access is the nation's largest organization of patients, medical professionals, scientists and concerned citizens promoting safe and legal access to cannabis for therapeutic use and research. Our staff is ready and willing to help you develop and implement regulations. You may reach me at [don@safeaccessnow.org](mailto:don@safeaccessnow.org) or (323) 326-6347 if you need additional information.

Thank you,

Don Duncan  
California Director

What the California Attorney General's Guidelines Mean for Medical Cannabis Dispensing Collectives in California  
<http://www.safeaccessnow.org/agguidelines>

Medical Cannabis Dispensing Collectives and Local Regulation  
<http://www.safeaccessnow.org/dispensaryreport>

Don Duncan, California Director

Americans for Safe Access (ASA)

<http://www.americansforsafeaccess.org/>

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