

## **Response to Attorney General Kelly Ayotte's Letter to the New Hampshire Senate**

In her April 28, 2009, letter to the New Hampshire Senate, Attorney General Kelly Ayotte makes several incorrect and misleading statements that deserve correction and clarification.

### **“Characterizing marijuana as a medicine ... is not supported by the medical research”**

There is abundant scientific evidence that marijuana is a safe, effective medicine for some people. For example, in 1999, the National Academy of Sciences' Institute of Medicine (IOM) reported, “Nausea, appetite loss, pain, and anxiety are all afflictions of wasting, and all can be mitigated by marijuana.”<sup>1</sup>

### **“Marijuana is an addictive drug”**

Dependence on marijuana is both rare and mild. In a report commissioned by the White House, the Institute of Medicine concluded, “Compared to most other drugs ... dependence among marijuana users is relatively rare ... [A]lthough few marijuana users develop dependence, some do. But they appear to be less likely to do so than users of other drugs (including alcohol and nicotine), and marijuana dependence appears to be less severe than dependence on other drugs.” The IOM reported that while 32% of tobacco users and 15% of alcohol users become dependent, only 9% of marijuana users ever become dependent.<sup>2</sup>

### **“[Marijuana] poses significant health consequences to its users” and “The safety of [medical marijuana] is highly questionable”**

All medicines have some negative side effects. For example, Tylenol (acetaminophen) has been estimated to kill nearly 500 Americans per year by causing acute liver failure,<sup>3</sup> while no one has ever died from marijuana poisoning. On September 6, 1988, after hearing two years of testimony, the Drug Enforcement Administration's chief administrative law judge, Francis Young, ruled: “Marijuana, in its natural form, is one of the safest therapeutically active substances known... It would be unreasonable, arbitrary, and capricious for DEA to continue to stand between those suffers and the benefits of this substance.”<sup>4</sup>

Marijuana is so safe that patients can easily find the proper dose themselves with no danger of overdose. As researcher Dr. Gregory Carter noted in a recent journal article, “THC (and other cannabinoids) has relatively low toxicity and lethal doses in humans have not been described ... It has been estimated that approximately 628 kilograms of cannabis would have to be smoked in 15 minutes to induce a lethal effect.”<sup>5</sup>

### **“The use of smoked marijuana is opposed by all credible medical groups nationwide.”**

Numerous health and medical organizations have favorable medical marijuana positions, including the American College of Physicians; American Nurses Association; American Public Health Association; and Leukemia & Lymphoma Society. As former U.S. Surgeon General Dr. Joycelyn Elders put it in a 2004 newspaper column, “I know of no medical group that believes that jailing sick and dying people is good for them.”<sup>6</sup>

### **“Marijuana has not been tested by the Federal Drug Administration [sic]”**

State medical marijuana laws have absolutely nothing to do with the FDA drug approval process. The FDA does not arrest people for using unapproved treatments. The FDA does not bar Americans from growing, using, and possessing a wide variety of medicinal herbs that it has not approved as prescription drugs, including Echinacea, ginseng, St. John's Wort, and many others.

### **“By characterizing marijuana as a medicine ... it will send a false and misleading message to New Hampshire residents”**

This is untrue. The message will be identical to message sent for drugs like OxyContin: Medicines are only to be used in accordance a doctor's advice. In every medical marijuana state that has had a law long enough to collect data from after the law was enacted, **teen marijuana use has decreased.**<sup>7</sup>

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<sup>1</sup> Institute of Medicine, *Marijuana and Medicine: Assessing the Science Base* (Washington, D.C.: National Academy Press, 1999), 159.

<sup>2</sup> Institute of Medicine, 98.

<sup>3</sup> Lee, William, “Acetaminophen and the U.S. Acute Liver Failure Study Group: Lowering the Risk of Hepatic Failure,” *Hepatology*, 40 (1) (2004), 6-9.

<sup>4</sup> “In the Matter of Marijuana Rescheduling Petition,” DEA Docket No. 86-22, September 6, 1988.

<sup>5</sup> Carter, Gregory T. et al., “Medicinal Cannabis: Rational Guidelines for Dosing,” *IDrugs* 2004 7(5). P. 464-470.

<sup>6</sup> Elders, Joycelyn, “Myths About Medical Marijuana,” *Providence Journal*, March 26, 2004.

<sup>7</sup> O'Keefe, Karen, et al., “Marijuana Use by Young People: The Impact of State Medical Marijuana Laws.” Marijuana Policy Project, June

**“One of the most harmful consequences of marijuana use is the role it plays in leading to the use of other illegal drugs.”**

The gateway theory has been debunked by every independent scientific body that has analyzed it. For example, according to a RAND Corporation study commissioned by the British Parliament, “The gateway theory has little evidence to support it, despite copious research.”<sup>8</sup> According to the Institute of Medicine, “There is no evidence that marijuana serves as a stepping stone [to other drugs] on the basis of its particular physiological effect.”<sup>9</sup>

**“Law enforcement will encounter significant problems with the enforcement of this law”**

The General Accounting Office (the investigative arm of Congress, now called the Government Accountability Office) interviewed officials from 37 law enforcement agencies in four states with medical marijuana laws. They examined whether medical marijuana laws had interfered with enforcement of laws regarding non-medical use. According to the GAO’s report, the majority of these officials “indicated that medical marijuana laws had had little impact on their law enforcement activities.”<sup>10</sup>

**“Many patients will have to turn to criminal drug dealers.”**

This claim stands reality on its head. In addition to protecting seriously ill patients from living in fear of arrest, a major benefit of HB 648 is that patients will no longer have to go to the dangerous criminal market for their medicine. Instead, patients will be able to cultivate their own medical marijuana or to designate a family member or health care provider to do so for them.<sup>11</sup> HB 648 means less business for criminal drug dealers, not more.

**“There will inevitably be a demand for counterfeit ID cards.”**

This has not happened in any state with a medical marijuana law, and the ID card system’s safeguards make it almost impossible that a fraudulent card could fool law enforcement. Each card will contain the patient’s name, address, a random ID number that is unique to the patient, and a photo, should the department choose to require one.<sup>12</sup> The department will maintain a confidential registry for the verification of ID cards, so if the ID number on a card that is presented to an officer does not correspond with a valid card, the officer will know it is fake.

**“[Allowing medical marijuana] may adversely affect the safety of the driving public” and “Unlike alcohol, there is no readily available test to determine if a person is driving under the influence of marijuana.”**

Driving under the influence of marijuana will remain illegal with the passage of HB 648.<sup>13</sup> Every day, tens of millions of Americans take medicines that can interfere with driving, from nonprescription allergy pills to Adderall and OxyContin. There is no readily available field test equivalent to a Breathalyzer to determine intoxication for most medicines that shouldn’t be used while driving, just as for marijuana. This does not mean that police cannot determine whether a driver is impaired. Police have used field sobriety tests for decades.

**“The possession, use, and cultivation of marijuana are all illegal under federal law ... The passage of HB 648 will provide no legal protection to New Hampshire residents.”**

This claim is simply false. HB 648 provides that patients may no longer be arrested by state or local officials or prosecuted in state or local courts for possession or cultivation of marijuana in compliance with the law.<sup>14</sup> While it is true that New Hampshire cannot change federal law, only one percent of all U.S. marijuana arrests are for violations of federal law.<sup>15</sup> So the worst-case scenario would be that HB 648 would provide 99% protection to New Hampshire patients.

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<sup>8</sup> R. Levitt, E. Nason, and M. Hallsworth, “Technical Report: The Evidence Base for the Classification of Drugs,” RAND Corporation, 2006.

<sup>9</sup> Institute of Medicine, 99.

<sup>10</sup> General Accounting Office, “Report to the Chairman, Subcommittee on Criminal Justice, Drug Policy and Human Resources, Committee on Government Reform, U.S. House of Representatives. Marijuana: Early Experiences With Four States’ Laws that Allow Use for Medical Purposes” (Washington, D.C.: GAO, 2002), 32.

<sup>11</sup> HB 648 126-S;2 (I, II); 126-S:1 (VIII)

<sup>12</sup> 126-S;3 (V).

<sup>13</sup> 126-S:5 (a)(1)

<sup>14</sup> 126-S;2 (I, II).

<sup>15</sup> *FBI Uniform Crime Reports 2004* (U.S. Government Printing Office) Table 4.1 and Table 29 and *Compendium of Federal Justice Statistics 2004* (Bureau of Justice Statistics) p. 13, Figure 1.1. Calculations derived from the two cited *Uniform Crime Reports* tables show that there were a total of 773,605 marijuana arrests nationwide during 2004. The *Compendium of Federal Justice Statistics* table states that there were 8,117 arrests for federal marijuana offenses in the 12-month period ending on September 30, 2004. Thus the arrests for federal marijuana charges are 1.106% of the total marijuana arrests.