

HEALTH CANADA AND DOCTORS FIGHT AGAINST MED POT PROGRAM

By, Ted Smith

Ever since the first judge decided cannabis had medical benefits that patients had a constitutional right to access, Health Canada and doctors have fought tooth and nail to discredit, diminish, dismiss, and undermine the acceptance of this plant as a legitimate medicine. From the mid 1990's, doctors have been fighting the medical cannabis program and Health Canada has made the smallest incremental changes to the regulations possible after losing in court, often ensuring more litigation in the future. Canada has maintained a legal medical program since 2001, yet cannabis is not an approved drug, it is merely authorized to be used by doctors, because Health Canada does not want to give a Drug Identification Number (D.I.N.) to any plant, including cannabis.

The Cannabis Act is the current legislation that regulates medical and recreational cannabis. It has been four years since federal legalization in Canada and now Health Canada is conducting a survey of the public to review the cannabis regulations. Near the end of the survey there appears a question that clearly indicates how much Health Canada desires to rid itself of the medical cannabis program.

“5.2 Is a distinct medical access program necessary to provide individuals with reasonable access to cannabis for medical purposes, or can access needs be met through the non-medical framework?”
(Cannabis Act Survey, 2022)

Cannabis Act Survey 2022

There was no reason for them to ask if the program was even necessary at all, given the high number of people that rely on the program in various aspects and the growing list of acknowledged benefits of cannabis as medicine. The only reason the government put this question to the public was because they expect to collect enough evidence to justify shutting down the medical cannabis program.

There are several reasons why many bureaucrats in Ottawa would like to see the end of the medical cannabis program, as we learned in trials like Allard, which I wrote about last week. Long before legalization in 2018, Health Canada tried to stop issuing personal and designated growers licenses because they were getting a number of complaints from various government agencies and individuals about the program being abused or negative consequences from poorly designed facilities. The attempt to terminate the issuing of licenses failed after the Allard decision in 2016, in which several patients challenged the government's plan in court. However, the decision clearly states that, as circumstances change, Health Canada might be able to justify shutting down the licensing of personal medical gardens.

Normally Health Canada does not deal directly with patients, leaving that to provincial or regional health authorities. No other department in Health Canada registers patients or conducts home inspections for any other medically required activities. Many doctors and officials within Health Canada have spent

years trying to stop people from both smoking tobacco and cannabis, so the very idea of accepting cannabis as medicine because the courts demand it, goes against many long-standing policies and attitudes in the medical establishment.

History of Medical Cannabis Laws in Canada

When the courts first started to defend patients in 1998, Health Canada tried to simply issue exemptions authorized directly from the Minister of Health Canada, which at the time was Alan Rock. Initially Health Canada allowed a patient to simply grow their own medicine while contracting a company, Prairie Plant Systems (PPS), to do research. However, it did not take long for another court decision involving an epileptic patient named Terry Parker ruled that the exemption program was unconstitutional. In 2001 the court decision forced the government to begin to allow PPS to sell cannabis to those unable to grow it for themselves, or find a caregiver to grow for them, under a new program called the Marijuana Medical Access Regulations (MMAR)

Even though these court decisions date back almost a quarter of a century, Health Canada is still not making any serious efforts towards including cannabis in the medicine cabinet. That was clear when they fought the Smith case all the way to the Supreme Court of Canada in 2015. In that case, Health Canada argued that smoking cannabis was the only safe way to use the plant for medical purposes. Messages about cannabis from Health Canada continue to deter people from using it, claiming consumers need to be concerned about addiction and anxiety.

In 2015 during the Smith v. Canada court proceedings, counsel for the federal government complained that the courts were actually creating a fourth means to get drugs on the market. Counsel argued that cannabis, and other illegal drugs, could now sidestep the drug approval process or other measures usually taken to make new medicines available. And instead of going through the normal drug approval processes, substances like cannabis were now being legalized via illegal sales, criminal charges and constitutional challenges in court.

No plant has ever gone through the drug approval process for several reasons. This includes genetic diversity in plants, and even on different parts of the same plant, that make the rigorous testing done at various stages produce inconsistent results. Even if it were possible to perfectly clone a plant to produce plant material genetically identical, each strain of cannabis would have to be put through the drug approval process separately and every product made using the plant would also require a separate D.I.N.

Therefore, either the drug approval process itself needs to be amended if cannabis is to be accepted as a prescription medicine, or a completely new regulatory process needs to be created to ensure medical cannabis products are properly tested, labeled and packaged. Otherwise, we might see Health Canada move cannabis into the Natural Health Products Regulations, which would put it in a system that makes more sense in terms of getting the products to market for identified medical purposes.

However, and this is a big concern, this plan would leave cannabis out of the prescription drug regime entirely, giving insurance companies the ability to avoid paying for any cannabis products. This would give Health Canada a way to dissolve the medical cannabis program, removing doctors from the situation while maintaining control over any cannabis products sold as medicine. This is not the future patients envision and we cannot let this possibility unfold without protest.

Canadian Medical Association Seeks the End of Medical Cannabis Program

There is no doubt that the majority of doctors in high-level bureaucratic positions want to see the end of the medical cannabis program, though a small minority of doctors strongly disagree. The opposition to the CMA position was made clear at a meeting of doctors studying cannabis at the Canadian Consortium for the Investigation of Cannabinoids conference in Toronto in 2018. At this conference, the Canadian Medical Association vice-president Dr. Jeff Blackmer first announced the anti-medical cannabis position of the CMA to the public.

The vice-president of the CMA boldly and clearly stated on stage, “If patients can access cannabis legally, the medical system becomes redundant, according to the association.”

The title from the CMA’s own Journal article from 2018 clearly reflects how unpopular this idea was amongst the medical professionals that understand the value of this plant as a medicine. “[T]he hostile response and personal attacks from the crowd led to him leaving before the session was over. ‘It was clear there was not going to be any reasoned debate or conversation,’ said Blackmer.” (CMA Journal, 2018). After the conference, and after the resistance was made known, the article was appropriately titled “CMA position against separate regulations for medical cannabis draws ire and insults” (CMA Journal, 2018)

The response to announcing this position was not surprising, given that it was made in front of the most passionate cannabis scientists in the country, many of whom rely on grants for medical research. The resistance was boisterous in a crowd of medical professionals who knew the CMA position was dangerously flawed and against the best interests of patients.

One of the main concerns of the CMA against medical cannabis is the fact that cannabis has never become an approved drug, passing all of the necessary safety tests other prescription drugs have done. Health Canada is providing no leadership in generating research into the medical applications of cannabis. Doctors have some legitimate concerns about how to prescribe cannabis to seriously ill patients given the limited efforts made by the federal government to teach the medical community about its uses. Doctors continue to deny patients access to medical cannabis because a number of doctors don’t consider cannabis to be medicine at all. This reality is where medical storefront compassion clubs like the VCBC meet the need in the gap of services between the medical establishment and the needs of patients.

“Blackmer said the position is based on the lack of evidence for the efficacy of cannabis for most indications, and a lack of understanding of appropriate dosages and potential drug interactions. ‘Most

physicians still feel uncomfortable providing prescriptions for cannabis as a medical product,' he said. 'They are being asked to treat it in a way they would never treat another substance. It would be anathema in any other area.'" (CMA Journal, 2018)

Thankfully there are a few professional organizations that have supported a separate medical program, at least in the past.

"The CMA's stance differs from some other Canadian professional organizations in health care, however. Both the Canadian Nurses Association and the Canadian Pharmacists Association support a separate medical stream for cannabis." (CMA Journal, 2018)

Nurses and pharmacists fear patients will be left with nowhere to go for medical advice when using cannabis, and that insurance companies will be able to stop covering it, if the medical cannabis program is shut down. Patients could lose access to medical products if the recreational market is the only source of cannabis that is being considered. For example, this means that we could expect to see fewer products made with CBD will be available, and even fewer if any other options like suppositories or topicals.

The CMA has been waiting for years for this review to try and put a final end to the medical cannabis program. Though it would have been impossible to try removing the medical cannabis program immediately after legalization, there is no doubt that CMA officials have heavily pressured Health Canada towards that goal as soon as possible.

One year later in 2019, the CMA released a renewed policy paper on cannabis that avoids their stance on shutting the medical program down. However, the language in the document is clear that doctors should only be authorizing cannabis as a last resort. The organization calls for the government to apply the same rigorous standards to cannabis that are applied to pharmaceutical drugs to ensure safety and efficacy.

"The CMA believes that physicians should not be put in the untenable position of gatekeepers for a proposed medical intervention that has not undergone established regulatory review processes as required for all prescription medicines. " (CMA Position Paper on Medical Cannabis, 2019)

There is a clear theme throughout the information coming from the CMA regarding their reluctance to recommend using cannabis before all other options have failed. A tone of resentment towards the judicial system resonates throughout their policies. From their perspective, judges are uneducated in medicine, yet they are forcing doctors to give patients the option of using cannabis as a medicine, a drug many doctors considered dangerous and unhealthy to use for decades. The Smith decision further complicated matters for doctors who now have to understand the full range of potential products and uses in the form of oils and edibles, as well as differences in cannabinoids and terpenes.

While the CMA policy paper says nothing about the uses of cannabis as medicine, they make sure to highlight any potential harms of cannabis use in a pure Reefer Madness style. Instead of admitting that after decades of spending mountains of research money trying to prove how harmful cannabis use is, the evidence against its use is limited and insufficient to justify prohibiting it. One of the most

frustrating parts of this position is the assertion that cannabis can be addictive and therefore harmful, when in fact it is far less addictive than many prescription drugs that are still being administered daily and it can be used to help stop patients from using opiates, which are significantly more dangerous.

“The current state of evidence regarding harms of cannabis use is also limited but points to some serious concerns. Ongoing research has shown that regular cannabis use during brain development (up to approximately 25 years old) is linked to an increased risk of mental health disorders including depression, anxiety, and schizophrenia, especially if there is a personal or family history of mental illness. Long term use has also been associated with issues of attention, impulse control and emotional regulation. Smoking of cannabis also has pulmonary consequences such as chronic bronchitis. It is also linked to poorer pregnancy outcomes. Physicians are also concerned with dependence, which occurs in up to 10% of regular users. From a public and personal safety standpoint, cannabis can impact judgment and increase the risk of accidents (e.g. motor vehicle incidents). For many individuals, cannabis use is not without adverse consequences.” (CMA Position Paper on Medical Cannabis, 2019)

Far from protecting the Charter rights of patients, if given the choice the CMA would rather let patients suffer without cannabis until a magical pharmaceutical company puts a single strain through the drug approval process to prove it was safe and effective. Only then would the CMA concede from its fear mongering about cannabis and allow patients to use it without doctors judging them as drug users. Their policies are even framed in a way that sounds like the patients using cannabis are at odds with their doctors, who are against using it, with the judicial system consistently siding against the physicians.

“Courts have consistently sided with patients’ rights to relieve symptoms of terminal disease or certain chronic conditions, despite the limited data on the effectiveness of cannabis. Courts have not addressed the ethical position in which physicians are placed as a result of becoming the gatekeeper for access to a medication without adequate evidence.” (CMA Position Paper on Medical Cannabis, 2019)

Here the CMA directly challenges the judicial system for protecting patients against the harsh punishments of criminal law for using a medicine that they find safe and effective. Instead of acknowledging that there is enough research into cannabis, after all it is the most studied plant in human history, the CMA voices its concerns about the moral position doctors face over any consideration for the health of the patient. If the CMA should be frustrated with anyone it should be Health Canada for dragging its heels on doing the research and amendments to the regulations that would be necessary to get a DIN for cannabis.

Ignoring the benefits of cannabis in the name of needing more research or overlooking its capacity to function as a safe opiate replacement, demonstrates the medical establishment’s resentment and desire to shut down the medical cannabis program in Canada. The CMA is intent on focusing on any potential harm that can result from cannabis in their policy document, not acknowledging the life saving power of this medicine for thousands of patients. While there are many doctors who fully understand the value of cannabis as a medicine, the majority of doctors, especially those at the top of the bureaucratic ladder, want to see the end of the medical cannabis program. No doubt they will be working closely with Health Canada officials behind the scenes to prepare for any backlash or future court challenges that will result from forcing patients into the recreational market.