

M. Fadel, #29 BOS
10/24/17

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Mitch Fadel
American Alliance for Medical Cannabis
El Dorado County Director

Good morning Madame Chair and fellow Supervisors,

My name is Mitch Fadel, I am the El dorado County director of the American Alliance for Medical Cannabis. I am here today on behalf of all the medical cannabis patients of El Dorado County. First I would like to thank the BOS for the continuing compassion and respect you have shown to the medical cannabis community. Also, I would like to thank Sheriff D' Agostini and all the county staff that has contributed their efforts in making Ordinance 5000 a living reality. Lastly, I want to thank all the medical cannabis patients that have conformed to the rules and regulations of the cultivation ordinance. For those of you who have failed to comply with Ordinance 5000, all I can say is shame on you, for you have ridden on the blood and sweat of the sick and dying for your own personal gain. Because of those people, we are here once again to defend our personal needs for safe and affordable cannabis due to the gross delinquency and disregard for the law. I can only hope the changes in the enforcement policy of this ordinance will bring about the compliance deserved.

As for the mandatory registration of medical cannabis gardens, I can only see that it will put an undue burden on legitimate patients who already are complying with Ordinance 5000 and would be working against the principles of Proposition 215 and may be unconstitutional under the California Constitution Article 11, Section 10 subdivision {c}.

I understand and empathize with the County's predicament in regards to enforcing the illegal cultivation of cannabis, but to expect the sick to bear the burden of a loss of privacy, legal exposure and a fee to register their garden is not an act of compassion. It appears it is casted out of frustration and desperation with the hope of bringing the outlaws into compliance.

Mandatory registration or a complete ban on cultivation will only hurt those who seek to be compliant and it will do little to nothing towards those who have chosen to ignore the ordinance and break the law. The risk of getting caught is too low, and the capital gains is extremely profitable.

Unfortunately, the sick should not be faced with the fear and anxiety of the unforeseen consequences of being in a data base that could be compromised at a later time in which may result in arrest, asset forfeiture, disqualification from medical benefits, or Second Amendment rights. Already, a patient have been denied a CCW permit due to their medical cannabis status and many patients have received letters from Medicare stating drug benefits would be denied if they are known to be cannabis patients.

For the sake of the legitimate patients, please do not make us collateral damage in the County's pursuit of bringing the outlaws into compliance. Please do not ask us to violate our Fifth Amendment right against self-incrimination, as possession, and cultivation of cannabis is still federally illegal. To ask any patient to go on record in any way is unconstitutional, based on a United States Supreme Court Ruling {Leary v United States {1969} 395 US 6. 12-13

So far the direction of U.S. Attorney Sessions with his constant and aggressive attacks on marijuana and his attempts to roll back progress by working to defeat amendments aimed at keeping state marijuana laws out of his reach, represents a far graver and existential threat to reform.

If the cultivation ordinance is complaint driven, registration will only substantiate whether or not there is a legal doctor's note, an established legal residency and an authorization from the legal owner of the property . All these things can be verified upon a compliance check. Code enforcement will still have to go on site to determine if the appropriate square footage of the garden that is planted is compliant, fencing, screening, and security are met, and the necessary setbacks exist. Mandatory registration does little more than identify where a medical cannabis garden exists and does nothing more to establish whether it is in full compliance or not until a physical verification is made.

Basically, if there is not a complaint filed, then there will be no need for a compliance check. Therefore, if a patient is in full compliance with the ordinance, then there should be no need to invade that patient's privacy, as the ordinance was designed to be out of sight, out of mind.

In closing, I want to mention that there is a case pending in San Bernardino County {Harris v Fontana} filed by the ACLU of Calif. And the Drug Policy Alliance on June 6, 2017. It is too early to determine the potential outcome of this case, but its basis is the ordinance requires applicants to register, pay fees, and make self-incriminating statements that admit to violating federal law that federal authorities can easily obtain. In light of this case and perhaps others that will be filed, I ask the Board to reconsider mandating the registration of medical cannabis gardens out of compassion for the patients.

Thank you, respectively,



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CLIENT ALERT MEMORANDUM

To: All Police Chiefs and Sheriffs

From: Martin J. Mayer, Esq.

U. S. SUPREME COURT REJECTS CHALLENGE TO PROP 215

The United States Supreme Court refused to hear the constitutional challenge, lodged by the counties of San Diego and San Bernardino, to Proposition 215. Both counties, in a unified action, sued the state of California claiming that, among other things, the requirement in SB 420 (which codified Prop 215) that counties issue ID cards to persons who had recommendations from doctors to use marijuana as medicine, violated federal law.

After losing in all of the California courts, the counties petitioned the U.S. Supreme Court to accept the cases for review but the Supreme Court said "no." Last July, in San Diego County vs. San Diego NORML and San Bernardino County vs. California, the Fourth District Court of Appeal held that "the purpose of the (federal law) is to combat recreational drug use, not to regulate a state's medical practices." The Court of Appeal also said California is free to decide whether to punish drug users under its own laws.

Proposition 215 does *not* legalize marijuana in California - not even for medical users. What it does is establish a defense against criminal prosecution of those who have met the state requirements to be classified as "qualified patients" who have a doctor's recommendation to use marijuana for medical purposes. The Court of Appeal had said that states are not obligated to enforce federal law and, therefore, they do not have to prosecute cultivation, possession, use, or transportation of marijuana, if they choose to not do so.

In their appeal, San Diego County's lawyers had argued that California's marijuana law was "preempted under the Supremacy Clause" of the Constitution by the federal drug control laws. By refusing to accept the case, without any comment, it would appear that the U.S. Supreme Court does not believe California's law is barred by the supremacy clause.

EL DORADO COUNTY BOS MEETING – 10-24-2017

Madam Chairman, and Members of the Board. Thank you very much for giving me the opportunity to speak.

My name is Bobby Eisenberg and I have been involved with the Medical Cannabis Advisory Group since it's inception and I have had a hand in crafting our cultivation ordinance 5000. It's been a great success among the patient community providing guidance with regard to what the patient's can safely cultivate in El Dorado County.

As the Custodian of Records for hundreds of El Dorado County Cannabis patients and thousands of patients throughout Northern California, I am very grateful to you and the previous Board Members who have supported and continue to support our patients right to cultivate here in El Dorado County

I am currently working with Dr. Beverly Mikuriya and her associates at Cool Consultations in Cool, an office she opened in 2014.

The Doctors only see patients one to two days a week, all by appointment and referral. We see patients being referred by Kaiser and Sutter Doctors as well as referrals from physicians from El Dorado and surrounding counties.

The majority of these patients range in age from 45 to 90 years old. Their maladies include but are not limited to all forms of cancer and the side effects related to chemotherapy and radiation, epilepsy and seizure related disorders, and chronic pain and the terrible side effects associated with highly addictive opioids that can be worse than the pain itself. The Doctors see patients who suffer from Migraine headaches that they've been unable to successfully treat with all of the pharmaceutical drugs they've been forced to take. They see patients with Parkinson's disease who are coming to the Cannabis doctors as a last resort because all else has failed. And they see a myriad of other conditions that can be improved through the use of Medical Cannabinoids.

Contrary to the belief of some, with 50,000 deaths a year related to opioid overdoses, Cannabis is the Gateway Away from Drugs NOT the Gateway Drug. The Federal Government now holds two patents on Cannabinoids for medical purposes.

Thousands of patients in El Dorado County have grown their Cannabis in compliance with Ordinance 5000. As the sheriff has stated repeatedly, these patients are not the problem.

One of the first questions new patients ask, many before making an appointment is, "Will I be on a list?" There is still great concern on the part of many to obtain a recommendation due to the stigma that has been maintained by the most

ignorant among us. Patients in many cases do not want their family, friends, employers, or primary care physicians to know about this very private decision to use Medical Cannabis.

Supervisors Ranalli and Novasel have expressed some consternation about being involved in the permitting of commercial enterprise related to Cannabis due to action that was taken by the Federal Government against supervisors in Mendocino County. I understand and agree with their concerns for their safety.

So how do you think the thousands of patients who have complied with Ordinance 5000 feel about the prospect of having to register? They don't trust the Federal Government either and this list could be subpoenaed just like what occurred in Mendocino.

I have spoken with hundreds of El Dorado County patients since last March when this idea was suggested and 100% of the patients have stated that they will not comply with this request.

You can't tell them that what they're doing is still a crime federally and then expect them to waive their Constitutional right not to incriminate oneself as guaranteed by Article 1, Section 15, of the California Constitution and the 5th Amendment to the United States Constitution. There are very serious constitutional issues around registration and if need be, I can submit legal case law support.

Registration for patients is a deterrent to compliance.

The real problem around Ordinance 5000 has been a lack of enforcement. Two, Four and Six Hundred square foot gardens are not attracting large illegal commercial grows, it's the lack of enforcement.

We're still on a complaint driven basis so having registration will not circumvent the need to investigate the complaint nor will it do anything to stop the large commercial grows.

And if patients are totally compliant except for the fact that they are seeking protection guaranteed by the California Constitution, why then should they be fined?

Put the fines in place for the large grows that are clearly out of compliance or permit them with fees to cover regulation but please leave the patients alone.

Thank you for your time.