

Southwest Chula Vista Civic Association

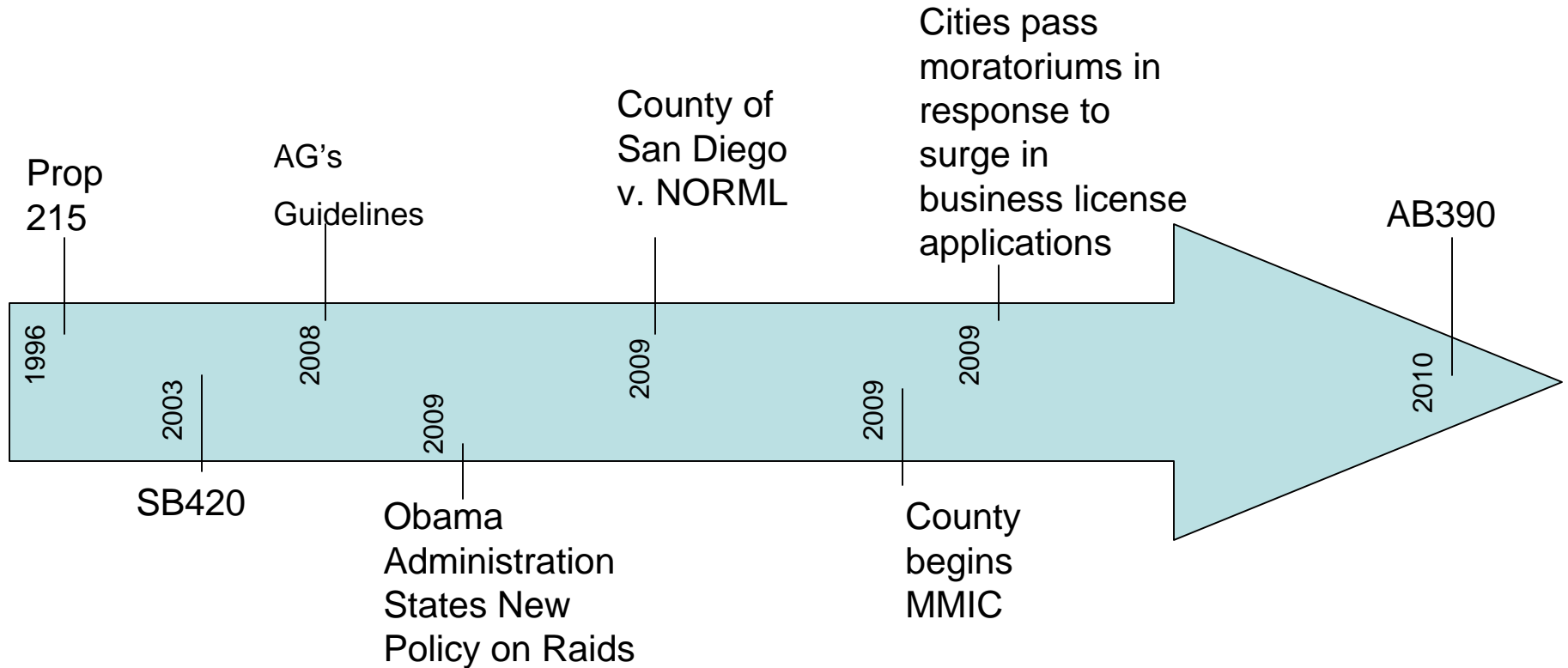
Cities Weighing the Regulatory Implications of Medical Marijuana

Aug. 24, 2009

Why are we here today?

- Our city is receiving applications for business licenses for medical marijuana collectives, cooperatives and dispensaries.
- Currently, city zoning does not include these types of businesses as a permitted use in the city.
- The city has enacted a 45-day moratorium on collectives, cooperatives and dispensaries in order to study the issue and determine if, and how, to permit and regulate them.

Historical Timeline



Questions for the Community

- Can we ban dispensaries in the city? What are other cities doing?
- What is the need for medical marijuana? Why not just use what's available through prescription?
- What is the difference between a collective, cooperative and a dispensary?
- What are the possible public health and safety impacts of medical marijuana collectives, cooperatives and dispensaries?

Collectives, Cooperatives and Dispensaries.

What's the difference?

- Collective – Nonprofit. Seller's Permit required.
- Cooperative – Must incorporate as nonprofit under Corporations Code or Food and Agricultural Code. Seller's Permit required.
- Dispensary - Retail, storefront distribution of medical marijuana. Not referenced in Prop 215 or SB420. AG says 'probably' unlawful.

How do you open a collective or cooperative?

- State law permits medical marijuana patients to form collective or cooperatives to grow and cultivate medical marijuana for their use or benefit of other members.
- Even if there are no sales, collectives and cooperatives are responsible for paying sales tax on the retail value of marijuana distributed.
 - Board of Equalization doesn't track sales by product. No data on taxable sales for medical marijuana.
 - BOE estimates reported by the media of the economic impact of taxing marijuana were specific to AB390, a bill to legalize marijuana for recreational use and create a regulatory structure for wholesale cultivation and distribution. Estimate was based on marijuana seizures by law enforcement and review of academic studies.

What does the Attorney General Say?

4. **Collectives Should Acquire, Possess, and Distribute Only Lawfully Cultivated Marijuana:** Collectives and cooperatives should acquire marijuana only from their constituent members, because only marijuana grown by a qualified patient or his or her primary caregiver may lawfully be transported by, or distributed to, other members of a collective or cooperative. (§§ 11362.765, 11362.775.) The collective or cooperative may then allocate it to other members of the group. Nothing allows marijuana to be purchased from outside the collective or cooperative for distribution to its members. Instead, the cycle should be a closed-circuit of marijuana cultivation and consumption with no purchases or sales to or from non-members. To help prevent diversion of medical marijuana to non-medical markets, collectives and cooperatives should document each member's contribution of labor, resources, or money to the enterprise. They also should track and record the source of their marijuana.

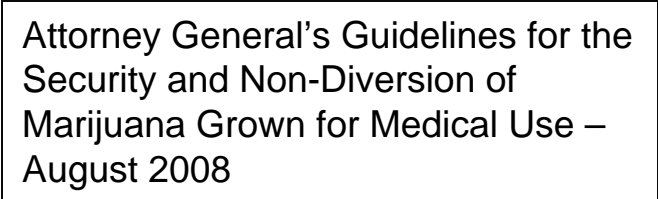
5. **Distribution and Sales to Non-Members are Prohibited:** State law allows primary caregivers to be reimbursed for certain services (including marijuana cultivation), but nothing allows individuals or groups to sell or distribute marijuana to non-members. Accordingly, a collective or cooperative may not distribute medical marijuana to any person who is not a member in good standing of the organization. A dispensing collective or cooperative may credit its members for marijuana they provide to the collective, which it may then allocate to other members. (§ 11362.765(c).) Members also may reimburse the collective or cooperative for marijuana that has been allocated to them. Any monetary reimbursement that members provide to the collective or cooperative should only be an amount necessary to cover overhead costs and operating expenses.

6. **Permissible Reimbursements and Allocations:** Marijuana grown at a collective or cooperative for medical purposes may be:

- a) Provided free to qualified patients and primary caregivers who are members of the collective or cooperative;
- b) Provided in exchange for services rendered to the entity;
- c) Allocated based on fees that are reasonably calculated to cover overhead costs and operating expenses; or
- d) Any combination of the above.



Can a retail dispensary meet these requirements?



Attorney General's Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use – August 2008

Key questions to ask business permit applicants?

- Membership criteria?
 - What is each member's role in the group?
 - Should have records to support claim.
 - Can anyone walk up and become a member?
 - Or is it like joining Blockbuster?
- Where does the marijuana come from?
 - Who is growing the marijuana and where?
 - Records support claim
 - Records show potency and safety of marijuana?
 - Security plans to prevent burglary of business location and cultivation sites.

Medical Marijuana: Is there a need?

UC Center for Medicinal Cannabis Research is studying efficacy and adverse affects of medical marijuana and implications for pharmaceutical use.

Established in 2000 at UCSD and UCSF

www.cmcr.ucsd.edu

Mission Statement: “The Center for Medicinal Cannabis Research will conduct high quality scientific studies intended to ascertain the general medical safety and efficacy of cannabis and cannabis products and examine alternative forms of cannabis administration. The center will be seen as a model resource for health policy planning by virtue of its close collaboration with federal, state, and academic entities.”

Funded by State of California

Research approved by Department of Health and Human Services, Food and Drug Administration, National Institute on Drug Abuse (NIDA), and Drug Enforcement Agency.

Cannabis supplied by NIDA.

CMCR Findings Thus Far

- 3 separate clinical trials found smoked cannabis provided effective relief for neuropathic pain in HIV patients.
- 1 clinical trial found smoked cannabis relieved muscle spasms in patients with multiple sclerosis.
- Clinical trials to date have been limited to study of efficacy and adverse effects in serious conditions.
- Review of basic animal research suggests cannabis **COULD** be effective in treating migraines and rheumatoid arthritis. However, more research is required.

Medical Marijuana and Prescription Drugs

Benefits

- Patients respond differently to drugs.
- Doctors value choices to meet patient needs and preferences.
- Existing prescription drugs for HIV pain and muscle spasticity have negative side effects
 - Heavy sedation,
 - Blurry vision
 - Lowered blood pressure
 - Dizziness
 - Dehydration
 - Addiction

Negatives

- Marijuana has negative side effects
 - Strong affects on mood/alertness
 - Increased heart rate
 - Severe anxiety
 - Hallucinations
 - Addiction
- Smoking cannabis is not tolerable for some patients
 - Not practical in hospital setting.
- Concern about safety and potency of marijuana.
 - With pharmaceuticals, every tablet has the same dosage. There is no system in place now to ensure safety and potency of marijuana available through dispensaries.

How do you get a medical marijuana ID card?

- Recommendation from a licensed physician
 - Not a prescription
- County health department verifies that recommendation is authentic and from a licensed physician in good standing.
 - www.sdcounty.ca.gov/hhsa/programs/phs/mmic/
- Issues ID card with state registered number.
 - Voluntary
 - Cost \$166 (or \$83 for Medi-Cal patients)
 - Verifiable online through CA Department of Public Health
 - www.calmmp.ca.gov

What are other cities doing?

- Several San Diego cities have implemented a moratorium: Chula Vista, National City, Imperial Beach, Escondido, Santee, Oceanside,
- City of San Diego is considering a citizen's medical marijuana task force to develop regulatory recommendations. Advisory only.
 - Estimated 50-60 dispensaries operating in city.
 - Review of business tax permits issued in July indicates 15-20 new dispensaries.

Public Safety Concerns cited in statewide law enforcement, media reports

- Crime
- Street re-sales of medical marijuana
- Loitering
- Double Parking outside dispensaries
- Noise
- Traffic
- Proliferation
- Clustering
- Close proximity to schools

Are ordinances effective?

- Los Angeles – LAPD reported 4 known dispensaries in 2005 and 98 in 2006.
 - Moratorium enacted in 2007 but included a “hardship exemption.”
 - City now working through public hearings on hundreds of dispensaries attributed to hardship exemption.
- San Francisco – Estimated 45 known dispensaries in 2005.
 - No regulations.
 - Currently have 24 known dispensaries. Reduction in complaints.
 - 6-8 have completed city’s full permitting process.

San Francisco DPH

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Medical Cannabis Dispensary Program

In order to obtain a permit as a MCD (medical cannabis dispensary), there are variety of City Departments that must review the application and inspect the facility.

The Health Department will serve as the **permit issuing agency** and coordinate all necessary referrals to various City Departments. Referrals will be made to the following Departments for stated purposes:

Proposed DRAFT MCD Regulations, 2009

- [Director's Rules and Regulations San Francisco Medical Cannabis Dispensary \(MCD\) Inspection Program](#)
- [MCD Regulations for Home Preparation of Edible Cannabis Products](#)

Planning

- Review of zoning and proximity to schools, community centers, and facilities providing substance abuse services.
- CEQA (Californian Environmental Quality Act) review.
- Required discretionary review or conditional use by the Planning Commission.
- Execution of public notices as required.

Fire

- Issuance of **Place of Assembly Permit** if more than 49 persons present.
- Review of general fire safety issues.

Building Department

- Evaluation, implementation, and approval of wheelchair accessibility in conjunction with the Mayor's Office on Disability. required of all MCD's
- Building, plumbing, electrical, and mechanical permits as may be necessary to comply with other structural requirements of *Article 33, SF Health Code*.

Health Department

- Criminal background checks of all MCD (medical cannabis dispensary) applicants and managers.
- Submittal of MCD (medical cannabis dispensary) security and lighting.
- Inspect each facility and determine necessary structural and operational requirements as described in San Francisco Health Code Article 33: Medical Cannabis Act.
- Conduct public hearing on application after receiving written approval from all other City Departments.
- Issue or deny permit to operate.
- Inspect each permitted MCD twice annually and in response to complaints.

Fee Schedule of Licenses, Permits, Fines & Service Charges

Permit Requirements

[Article 33: Medical Cannabis Act \(pdf\)](#)

Fees:

Dispensary Application Permit: \$8,470

Dispensary License & Reinspection: \$3,933

Cities cont.

- Arcata – Reviewing its land use and zoning for marijuana cultivation due to a surge in “grow houses” in rental properties.
 - Complaints of housing shortage and burglaries.
- Clovis – Ordinance prohibits
 - Compensation for medical marijuana
 - Employees. All work must be performed by members.

Big Questions

- Can cities prohibit collectives, cooperatives and dispensaries?
- Are cities required under the law to provide safe access to medical marijuana for qualified patients by permitting and regulating dispensaries, collectives and cooperatives?
 - *Qualified Patients v. City of Anaheim*
- Should cities ban dispensaries but permit and regulate collectives and cooperatives?

Big Questions Cont.

- Should collectives and cooperatives be regulated as adult businesses?
- How should collectives and cooperatives be zoned?
 - Avoiding clusters/strips and proliferation
 - Prohibit near schools, parks, churches
 - Prohibit near treatment and sober living centers
- Can cities require that patients obtain a medical marijuana identification card even though the state program is voluntary?
- Is there a model ordinance that could be used across the region.
 - Are there specific areas for regional regulatory agreement?