



February 10, 2023

Re Senate Bill SB-081 Access to Medical Marijuana

Senate Health and Human Services
Denver, Colorado 80203

Chair Fields and Committee Members:

My name is Bryon Adinoff. I am an addiction psychiatrist, Clinical Professor at CU Anschutz Medical Campus, and president of Doctors for Cannabis Regulation (DFCR). Prior to moving to Colorado upon retirement from full-time academia four years ago, I was the Distinguished Professor of Alcohol and Drug Abuse Research at the University of Texas Southwestern Medical Center in Dallas and for over 30 years I was a physician in the Department of Veterans Affairs. I have published and spoken widely on the biological effects and treatment of addictive disorders and I am the Editor of *The American Journal of Drug and Alcohol Abuse*.

I am writing to express my support for Colorado bill SB-081, which allows physicians to recommend cannabis without requiring them to report their DEA number or the route of cannabis administration, dosage, strain, or THC potency.

As a medical professional, I believe that this bill aligns with the principles of medical autonomy and patient-centered care. Patients should have access to the best possible medical advice, and physicians should be able to make informed recommendations without fear of legal repercussions.

Furthermore, SB-081 is consistent with the ruling in Conant v. Walters [309 F.3d 629 (9th Cir. 2002)]. In this case, the court was asked to determine if the government's professed enforcement policy, to punish physicians for communicating with their patients about medical marijuana, threatened to interfere with expression protected by the First Amendment. The Ninth Circuit Court affirmed that the mere fact that a physician anticipates that a patient will use a recommendation to obtain marijuana "does not translate into aiding and abetting or conspiracy." In other words, physicians have a constitutional right to recommend medical cannabis to their patients without fear of federal prosecution. However, the Court also noted that "If, in making the recommendation [for cannabis use], the physician intends for the patient to use it as a means for obtaining marijuana, as a prescription is used as a means for a patient to obtain a controlled substance, then a physician would be guilty of aiding and abetting the violation of federal law."

One can therefore conceptualize a physician “recommendation” as certifying only that a patient should not be criminalized under state law for using cannabis, but the recommendation should not be seen as intending to help the patient get the cannabis. But by specifying the amount, the potency, the directions for use, and strain of cannabis a patient should obtain, there would be an assumption that the practitioner intends for the recommendation to be used by the patient to administer the cannabis as directed and, thereby, put the practitioner at risk of federal prosecution. The inclusion of the physician’s DEA number would further indicate that the physician is aware that they are recommending a Scheduled medication for personal use.

Several years ago, the California Medical Association specifically advised physicians *not* to recommend to their patients individualized advice concerning dosage, scheduling, amount, and route of administration. Physicians in Colorado have heeded this advice. 28% of cannabis clinicians, or 126 clinicians, did not renew their registration with the medical cannabis registry system at CDPHE following the implementation of the bill. This may also be why none of the other 37 states with legal medical cannabis require such burdensome requirements.

Some believe that since other medications require a doctor’s prescription, then cannabis should. But both over-the-counter (OTC) medications and herbal supplements are commonly recommended by physicians – and do not require a prescription. In fact, 60% of medications (which are used to treat or cure some 400 ailments) are OTC. This does not necessarily mean that these medications are safe; the over-the-counter medication acetaminophen (Tylenol) is responsible for 56,000 emergency department visits, 2,600 hospitalizations, and 500 deaths per year in the United States. Non-steroidal medications, such as ibuprofen (e.g. Advil; which is over-the-counter), are related to over 16,000 deaths annually among patients just with osteoarthritis or rheumatoid arthritis. Many herbal remedies, such St. John’s Wort, ginkgo biloba, and ginseng can also have toxic effects. The citizens of Colorado have voted for a ballot initiative that allows patients to access medical cannabis with a simple physician recommendation. Let us not undermine the voters’ decision.

In conclusion, I support Colorado bill SB-081 and believe that it will help improve the quality of medical care for patients who are seeking medical cannabis. I thank you for your time and consideration, and I look forward to your support for this important piece of legislation.

Sincerely,

Bryon Adinoff, MD