

## Issues and Concerns with Responsible Ohio Marijuana Legalization Plan

### **Top Concerns**


1. No limits to the amount of marijuana a person can possess, transfer, share or use
2. Medical marijuana patients would be allowed to smoke in public, in day care centers, correctional facilities and schools with a medical marijuana certification. (Section J(2))
3. 1140 pot stores would be allowed under law – There would be five times as many pot stores as there would be Starbucks (203) in Ohio. (Section H)

### **FULL LIST OF CONCERNS**

#### **Section B – Use of Medical Marijuana and Debilitating Medical Conditions**

1. "A bona fide physician-patient relationship exists"
  - a. What are the criteria for such a relationship?
  - b. Does the doctor have to physically see or examine the patient for issuing a marijuana certification?
2. Does the doctor have to be trained on the benefits and risks of marijuana to provide a certification to a patient?
  - a. How does the doctor know what the risks and benefits are and what ailments can be "treated" with marijuana?
3. Children could receive marijuana with the written consent of a parent.
  - a. Does this encourage abuse of marijuana by young people or those whose parents are addicted?
4. Physicians are not subject to any disciplinary action if the person issues a medical marijuana certification
  - a. Does this open doctors up to abusing the system in issuing certifications?
  - b. Pill-mill doc scenarios with no disciplinary actions being permitted?
5. The physician determines the "risk of the patient's use of medical marijuana is reasonable for potential benefit..."
  - a. What is "reasonable" in the eyes of this Amendment?
6. There are no limits on the amounts of marijuana that a person can be recommended for.
  - a. A physician, according to the language, does not have to issue an amount of pot that can be certified to any patient. A patient could realistically have 100 pounds of pot for any of the approved ailments in the initiative and be within the legal bounds of this law

#### **Section C – Establishment of Medical Marijuana Not-For-Profit Dispensaries**

1. There are no rules or regulations identified within the initiative. These will be determined by the Commission.
  2. No limits to the number of dispensaries that can be established.
  3. "The Commission may fund the reasonable and necessary operating costs of the not-for-profit medical marijuana dispensaries..."
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- a. Since the Commission will be an entity of state government, will tax dollars be used in funding dispensaries?
- 4. "Establish a program to provide low-cost marijuana to qualifying patients who are unable to afford the full cost."
  - a. This looks like "welfare weed" with a lower cost for low-income individuals
  - b. What are the income guidelines to receive low-cost marijuana?
  - c. How is "low-cost" marijuana subsidized? (Proceeds from marijuana taxes)

#### **Section D – Personal Use of Marijuana and Authorization of Homegrown Marijuana**

- 1. A person can grow, possess and share four flowering marijuana plants and 8 ounces of usable homegrown marijuana
- 2. Can a dealer use, as a defense if caught trafficking marijuana, the excuse that he/she was "sharing" the marijuana?
  - a. Tougher on law enforcement to stop trafficking of marijuana and prosecutors to convict known marijuana traffickers
- 3. How does this impact landlords and rental units?
  - a. Does a landlord have to allow home grows and cultivations in their rental homes or units?
  - b. Cleanup after marijuana grows are costly. Who pays those costs?
- 4. What is an "enclosed, locked space inaccessible to persons under the age of 21"?
  - a. A closet? A safe? A bedroom?

#### **Section E – Taxation of Marijuana Revenue**

- 1. No taxes on medical marijuana dispensaries or medical marijuana
- 2. 5% tax on retail marijuana
  - a. If Colorado brought in only \$44 million on 25% tax, what tax revenue will this bring in?
- 3. Tax distribution
  - a. What are the costs to operate the Commission?
  - b. What if there is not enough tax dollars brought in to operate the Commission or dispensaries
  - c. Reasonable and necessary costs of medical dispensaries. What are those?
- 4. "The above described funds shall be established in the state treasury.. and distributed monthly"
  - a. Can federally-illegal money flow through the Ohio Treasury?
  - b. Will this grow government in the Treasurer's Office to account for marijuana tax-distribution?

#### **Section F – Establishment of Marijuana Growth, Cultivation and Extraction Facilities**

- 1. "The growth and cultivation of marijuana and medical marijuana and the extraction of cannabinoids... for sale and medical use within this state shall be lawful only at licensed MGCE (Marijuana Growth, Cultivation and Extraction) facilities."
  - a. Does an FDA-approved cannabis-based medication become illegal in Ohio because it is not created at an MGCE?
- 2. "Any MGCE may expand its structures and related operations to adjacent real property..."
  - a. Parcels can grow into larger entities if adjacent land is acquired

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3. "No existing local or state law shall be applied to prohibit the development or operation of such facilities"
  - a. Pre-existing zoning ordinances cannot stop these facilities. Local control is lost.
4. In the fourth year, an additional MGCE can be established if consumer demand cannot be met
  - a. What is the determination of "consumer demand" being met?
  - b. Location and size of additional sites are not determined

#### **Section G – Establishment of Marijuana Product Manufacturing Facilities**

1. Marijuana-infused products potency is not identified in the document. To be determined by the Commission.
  - a. Real danger in Colorado
  - b. Increases in marijuana poisonings of children and pets
  - c. No consistent potency identification outside of packaging
2. "Marijuana-infused products are not manufactured, packaged or advertised in ways that create a substantial risk of attractiveness to children"
  - a. What constitutes a "substantial risk of attractiveness to children?"

#### **Section H – Establishment of Retail Marijuana Stores**

1. Marijuana sold must be from MGCE
  - a. Create a monopoly for marijuana in Ohio
2. "The number of stores statewide shall not exceed the ratio of one to ten thousand based on the state's population..."
  - a. 1140 retail stores could be established. This is in addition to the unspecified number of dispensaries that could be established.
  - b. This compares to only 203 Starbucks in the State of Ohio (as of 3/5/15). For every Starbucks, there would be over five pot stores.
3. "No such license shall be issued to a store unless the electors of the precinct where the store will be located have approved the use of the location...at a local option election."
  - a. Elections based on alcohol sale locations
4. No limits to how much marijuana can be sold or purchased at a retail store by an individual

#### **Section I – Ohio Marijuana Control Commission**

1. Members
  - a. Licensed Ohio physician
  - b. Sworn Ohio Law Enforcement Officer
  - c. Licensed Ohio attorney experienced in administrative law
  - d. Ohio-based patient advocate
  - e. Ohio resident with demonstrated experience in owning, developing, managing and operating businesses
  - f. Ohio resident with demonstrated experience in the legal marijuana industry
  - g. Public member
2. Two (business owner, public member and law enforcement officer) and four-year (attorney, physician, industry-experienced member, patient advocate) terms.

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3. "Regulations shall not prohibit the operation of marijuana establishments or home growing...or regulations that make their operation unreasonably impracticable."
  - a. What would regulations look like to be "unreasonably impracticable?"
4. Tracking and monitoring system developed
  - a. Will this be developed with tax-payer funds?
5. "The Commission shall serve as a clearing house for scientific and medical industry research on the use of marijuana, marijuana-infused products and medical marijuana."
  - a. How will this be staffed or funded?
6. "The Commission shall establish a marijuana innovation and business incubator in Cuyahoga County.. to create new products, companies and jobs associated with the medical marijuana and marijuana industries in Ohio."
  - a. Industry growth plan
  - b. How does this get paid for?
7. Does the Commission usurp the General Assembly's role in rulemaking and creating laws in Ohio?

#### **Section J – General Provisions and Specific Limitations**

1. Section 2 – A person shall not consume marijuana in any public place, school, day care, correctional facility or in a mode of transportation
  - a. However, it later goes onto to say that "The foregoing provisions do not prohibit a patient from using medical marijuana..." Could medical marijuana patients use marijuana publicly or in a day care, jail or school??
  - b. The General Assembly shall pass laws enforcing operation of a vehicle.
2. Section 4 - In a business, "a patient with a medical marijuana certification may self administer medical marijuana subject to the same conditions applied to administration of prescribed medications."
  - a. Business owners would have to allow employees who have a medical marijuana certification to smoke pot in accordance with prescribed medication guidelines.
3. Section 7 – Sharing of marijuana accessories for persons under the age of 21 is legal with a valid medical marijuana certification.
  - a. Children who are medical marijuana patients can transfer, possess and share marijuana accessories (bongs, pipes, vaping accessories, etc.)

#### **Section L – Definitions**

1. "Severe pain" is included in the definitions of ailments listed to be covered by medical marijuana. It is also the most abused reason for cardholders in other states.