U.S. Department of Justice

United States Attorney
Northern District of California

Melinda Haag
United States Attorney

11th Floor, Federal Building
450 Golden Gate Avenue, Box 36055
San Francisco, California 94102-3495

(415) 436-7200
FAX:(415) 436-7234

February 1, 2011

John A. Russo, Esq.
Oakland City Attorney
1 Frank Ogawa Plaza, 6th Floor
Oakland, California 94612

Dear Mr. Russo:

I write in response to your letter dated January 14, 2011 seeking guidance from the Attorney General regarding the City of Oakland Medical Cannabis Cultivation Ordinance. The U.S. Department of Justice is familiar with the City's solicitation of applications for permits to operate "industrial cannabis cultivation and manufacturing facilities" pursuant to Oakland Ordinance No. 13033 (Oakland Ordinance). I have consulted with the Attorney General and the Deputy Attorney General about the Oakland Ordinance. This letter is written to ensure there is no confusion regarding the Department of Justice's view of such facilities.

As the Department has stated on many occasions, Congress has determined that marijuana is a controlled substance. Congress placed marijuana in Schedule I of the Controlled Substances Act (CSA) and, as such, growing, distributing, and possessing marijuana in any capacity, other than as part of a federally authorized research program, is a violation of federal law regardless of state laws permitting such activities.

The prosecution of individuals and organizations involved in the trade of any illegal drugs and the disruption of drug trafficking organizations is a core priority of the Department. This core priority includes prosecution of business enterprises that unlawfully market and sell marijuana. Accordingly, while the Department does not focus its limited resources on seriously ill individuals who use marijuana as part of a medically recommended treatment regimen in compliance with state law as stated in the October 2009 Ogden Memorandum, we will enforce the CSA vigorously against individuals and organizations that participate in unlawful manufacturing and distribution activity involving marijuana, even if such activities are permitted under state law. The Department's investigative and prosecutorial resources will continue to be directed toward these objectives.

Consistent with federal law, the Department maintains the authority to pursue criminal or civil actions for any CSA violations whenever the Department determines that such legal action is warranted. This includes, but is not limited to, actions to enforce the criminal provisions of the CSA such as Title 21 Section 841 making it illegal to manufacture, distribute, or possess with intent to distribute any controlled substance including marijuana; Title 21 Section 856 making it

unlawful to knowingly open, lease, rent, maintain, or use property for the manufacturing, storing, or distribution of controlled substances; and Title 21 Section 846 making it illegal to conspire to commit any of the crimes set forth in the CSA. Federal money laundering and related statutes which prohibit a variety of different types of financial activity involving the movement of drug proceeds may likewise be utilized. The government may also pursue civil injunctions, and the forfeiture of drug proceeds, property traceable to such proceeds, and property used to facilitate drug violations.

The Department is concerned about the Oakland Ordinance's creation of a licensing scheme that permits large-scale industrial marijuana cultivation and manufacturing as it authorizes conduct contrary to federal law and threatens the federal government's efforts to regulate the possession, manufacturing, and trafficking of controlled substances. Accordingly, the Department is carefully considering civil and criminal legal remedies regarding those who seek to set up industrial marijuana growing warehouses in Oakland pursuant to licenses issued by the City of Oakland. Individuals who elect to operate "industrial cannabis cultivation and manufacturing facilities" will be doing so in violation of federal law. Others who knowingly facilitate the actions of the licensees, including property owners, landlords, and financiers should also know that their conduct violates federal law. Potential actions the Department is considering include injunctive actions to prevent cultivation and distribution of marijuana and other associated violations of the CSA; civil fines; criminal prosecution; and the forfeiture of any property used to facilitate a violation of the CSA. As the Attorney General has repeatedly stated, the Department of Justice remains firmly committed to enforcing the CSA in all states.

I hope this letter assists the City of Oakland and potential licensees in making informed decisions regarding the cultivation, manufacture, and distribution of marijuana.

Very truly yours,

Melinda Haag
United States Attorney
Northern District of California

cc: Kamala D. Harris, Attorney General of the State of California
Nancy E. O'Malley, Alameda County District Attorney

U.S. Department of Justice

United States Attorney
District of Arizona

Two Renaissance Square
40 North Central Avenue, Suite 1200
Phoenix, Arizona 85004-4408

Main: (602) 514-7500
MAIN FAX: (602) 514-7693

March 23, 2011

Dear Tribal Leader:

In keeping with my belief that frequent communication between us is key to improving public safety in Indian Country, I write to provide you with the latest updates on USAO matters and programs that bear on your community. In December, I wrote to you to discuss the transfer of juveniles to adult status in federal criminal matters, and to advise you that the law provides your tribal government with opportunity for input to the process when the juvenile suspects from your community are under the age of 15. Today I write with additional news I think will be of interest to all of you, including an update on the progress of our Tribal SAUSA program, which I introduced in an earlier letter.

Tribal SAUSA Program

In November, I sent you a model letter of agreement detailing the Tribal SAUSA Program, so you could evaluate it and consider whether your government might participate by nominating a tribal prosecutor or other tribal attorney. Several of you have responded in the affirmative and have requested or entered into a final letter of agreement. This office is setting up initial meetings with the tribal prosecutors thus far designated by their leaders and we anticipate this first group (of approximately six tribal prosecutors) will submit papers for the federal background check in April, with SAUSA training for the first class to take place in June. We will repeat the process three months later for up to six additional tribal attorneys. For those tribal leaders still considering whether to participate in the Tribal SAUSA program, I sincerely hope you will take advantage of it and then monitor the benefits to your community. If this is at all a possibility, I encourage you to contact Tribal Liaison John Tuchi at (602) 514-7543 or Deputy Tribal Liaison Marnie Hodahkwen at (602) 514-7568 to discuss it. And if you have decided to participate, please contact John or Marnie to get a final letter agreement addressed to the appropriate official.

USAO Approach to Medical Marijuana in Tribal Lands

Since the voters of the State of Arizona passed, by referendum, a medical marijuana regime in November, several of you have contacted us to discuss the position the United States Department of Justice will take regarding criminal prosecution of marijuana offenses in Indian Country. In October 2009, then-Deputy Attorney General David Ogden issued Department-wide policy guidance on this issue for all districts in which states had enacted laws authorizing medical marijuana cultivation, distribution, possession and use. I enclose with this letter a copy of that policy, which provides in brief that where a target is in "clear and unambiguous compliance" with the state law, federal prosecutors ought not devote scarce resources to the prosecution of program participants. I also attach guidance our

office has recently developed to address the particular circumstance of medical marijuana on tribal lands. That guidance, while honoring the Department-wide policy, also recognizes the unique circumstance of Indian Country, where state law does not apply and tribal criminal law does not reach non-Indians; the guidance therefore provides that we will evaluate every case submitted from Indian Country involving marijuana on a case-by-case basis, and where sufficient evidence is developed taking the matter out of "clear and unambiguous compliance" with the state scheme, we will consider prosecution. A copy of that guidance also is attached. Should you have any questions about either of these policies or medical marijuana in general, please contact John or Marnie at the above numbers.

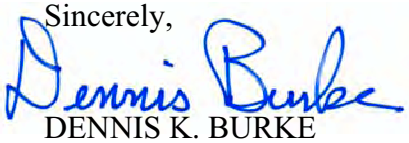
Special Law Enforcement Commission Program Issues

Another major thrust of our Public Safety Operational Plan is to promote the Special Law Enforcement Commission (or SLEC) Initiative to every tribe with a 638-contract police force. SLEC is a program administered by BIA that allows tribal police officers, upon completing required training in substantive federal law and federal criminal procedure, to act as federal agents for purposes of investigating and prosecuting federal felonies (including the so-called "Major Crimes") in Indian Country. This Office aggressively promotes SLEC status because we recognize that it multiplies the number of trained officers available to properly investigate and bring federal charges against the most serious and dangerous offenders in Indian Country. SLEC also improves the training and ability of those most likely to be the first responders to serious violent crimes in Indian Country - your tribal police.

As we have assumed an increasing role in delivering SLEC training to tribes, we also have observed practices in administering the program that needlessly inconvenience and even discourage otherwise qualified tribal officers and their departments from participating in SLEC. Our concern for the treatment of tribal police officers in Arizona led us to draft substantial portions of a letter from the U.S. Attorney community to Mr. Darren Cruzan, BIA's Assistant Director for Justice Services, pointing out some of the obstacles the current system has placed before those seeking SLEC certification, and suggesting ways to make the program more officer-friendly. I have attached a copy of that letter for your review as well. We are hopeful that BIA will act on our suggestions to make obtaining SLEC a less frustrating and more respectful process for tribal law enforcement.

I hope you find the information in this letter useful. As always, please call me or any member of our Indian Country Team whenever we can be of help.

Sincerely,



DENNIS K. BURKE
United States Attorney
District of Arizona

enclosures

United States Attorney's Office - District of Arizona
Policy Guidance on Medical Marijuana in Indian Country

The United States Attorney's Office for the District of Arizona remains committed to the enforcement of the Controlled Substances Act. Our District policy remains one of "zero tolerance" for illegal distribution or other trafficking of any controlled substance–including marijuana–in Indian Country, no matter what the quantity. Now that the voters of Arizona have enacted by referendum a medical marijuana regime, this District will be subject to, and expected to follow , the attached policy directive from the office of the Deputy Attorney General of the United States, dated October 2009. It provides that USAOs should refrain from devoting scarce resources to the prosecution of individuals who possess or handle marijuana in clear and unambiguous compliance with a state's duly enacted medical marijuana laws. We will therefore handle prosecutions in Indian Country—as with the rest of our potential medical marijuana prosecutions on other federal land and elsewhere–in accordance with the DAG memo. This will not interfere with our commitment to prosecuting illegal drug trafficking on tribal land. We will evaluate every marijuana prosecution referred to us on a case-by-case basis to determine whether there are indicators that an individual is not in clear and unambiguous compliance with state law, which can be indicated in many ways–possessing a quantity of the drug greater than allowed by the state scheme; possession of other controlled substances in concert with marijuana; evidence of distribution for profit; or carriage of a firearm in connection with marijuana. This list is not exhaustive, and in cases where these other factors exist, we will evaluate for federal prosecution.

Recognizing that in many cases, individuals may be subject to stiffer penalties for certain crimes under tribal law than in the federal court system, each tribe may also wish to work to formulate its own policies and regulations for medical marijuana cases. We are also open to further discussions on medical marijuana policy if any tribes have concerns or questions.

U.S. Department of Justice

United States Attorney
District of Hawaii

PJKK Federal Building
300 Ala Moana Blvd., Room 6-100
Honolulu, Hawaii 96850

(808) 541-2850
FAX (808) 541-2958

April 12, 2011

Jodie F. Maesaka-Hirata, Director
Department of Public Safety
State of Hawaii
919 Ala Moana Boulevard, 4th Floor
Honolulu, Hawaii 96814

Re: SENATE BILL 1458 SD2, HD2

Dear Ms. Maesaka-Hirata:

This replies to your letter dated April 6, 2011, seeking guidance from the Attorney General and my office with regards to S.B. No. 1458, which if enacted, would establish in each County of this State for a five year test period at least one "medical marijuana compassion center" for the manufacture and distribution of marijuana. Under this bill, such marijuana distribution centers licensed by the State Department of Public Safety, would be authorized to sell marijuana within the respective counties in which they are located. In addition, the Bill also authorizes the sale of marijuana to other caregivers and non-resident patients visiting from other states. This letter is written to ensure there is no confusion regarding the Department of Justice's view of such distribution centers.

As the Department has said on many prior occasions, Congress has determined that marijuana is a controlled substance. Congress placed marijuana in Schedule I of the Controlled Substances Act, 21 U.S.C. § 801 et. seq. ("CSA") and as such, growing, distributing, and possessing marijuana in any capacity, other than as part of a Federally authorized research program, is a violation of Federal law regardless of state laws permitting such activities.

As a way of emphasizing the foregoing, the CSA's penalties for felony marijuana offenses (manufacture,

distribution, possession with intent to distribute) should be considered:

-1,000 or more marijuana plants, or 1,000 kilograms: 10 years - life imprisonment;

-100 or more marijuana plants, or 100 kilograms: 5 - 40 years imprisonment;

-50 marijuana plants or more, or more than 50 kilograms: up to 20 years imprisonment; and

-Less than 50 marijuana plants, or less than 50 kilograms: up to 5 years imprisonment.

The prosecution of individuals and organizations involved in the trade of any illegal drugs and the disruption of drug trafficking organizations is a core priority of the Department. This core priority includes prosecutions of business enterprises that unlawfully market and sell marijuana. Accordingly, while the Department does not focus its limited resources on seriously ill individuals who use marijuana as part of a medically recommended treatment regimen in compliance with state law, we maintain the authority to enforce the CSA vigorously against individuals and organizations that participate in unlawful manufacturing and distribution activity of controlled substances, including marijuana, even if such activities are permitted under state law.

Consistent with federal law, the Department maintains the authority to pursue criminal or civil actions for any CSA violations whenever the Department determines that such legal action is warranted. This includes, but is not limited to, actions to enforce the criminal provisions of the CSA such as:

-21 U.S.C. § 841 (making it illegal to manufacture, distribute, or possess with intent to distribute any controlled substance including marijuana);

-21 U.S.C. § 856 (making it unlawful to knowingly open, lease, rent, maintain, or use property for the manufacturing, storing, or distribution of controlled substances);

-21 U.S.C. § 860 (making it unlawful to distribute or manufacture controlled substances within 1,000 feet of schools, colleges, playgrounds, and public housing facilities, and within 100 feet of any youth centers, public swimming pools, and video arcade facilities);

-21 U.S.C. § 843 (making it unlawful to use any communication facility to commit felony violations of the CSA); and

-21 U.S.C. § 846 (making it illegal to conspire to commit any of the crimes set forth in the CSA).

In addition, Federal money laundering and related statutes which prohibit a variety of different types of financial activity involving the movement of drug proceeds may likewise be utilized. The Government may also pursue civil injunctions, and the forfeiture of drug proceeds, property traceable to such proceeds, and property used to facilitate drug violations.

This Bill would create a State licensing scheme which permits the marijuana distribution center in each county to support unlimited numbers of resident caregivers and patients and non-resident patients visiting from other states. As such, this scheme would authorize large-scale marijuana manufacture and sales, which is contrary to Federal law and threatens the Federal government's efforts to regulate the possession, manufacturing, and trafficking of controlled substances. Accordingly, the Department is carefully considering civil and criminal legal remedies if this Bill is enacted and becomes law, with respect to those who seek to create such marijuana distribution centers pursuant thereto. Individuals who elect to operate such marijuana centers will be doing so in violation of Federal law. Others who knowingly facilitate and assist the actions of the licensees (including property owners, landlords, and financiers) should also know that their conduct violates Federal law. Potential actions the Department may consider include injunctive actions to prevent cultivation and distribution of marijuana and other associated violations of the CSA; civil fines; criminal prosecution; and the forfeiture of any property used to facilitate a violation of the CSA. As the Attorney General has repeatedly stated, the Department of Justice remains firmly committed to enforcing the CSA in all states.

I hope this letter assists the State of Hawaii and potential licensees in making informed decisions regarding the cultivation, manufacture, and distribution of marijuana.

Very truly yours,

FLORENCE T. NAKAKUNI
United States Attorney

U.S. Department of Justice

United States Attorney

Eastern District of Washington

Suite 340 Thomas S. Foley U. S. Courthouse (509) 353-2767
P. O. Box 1494 Fax (509) 353-2766
Spokane, Washington 99210-1494

Honorable Christine Gregoire
Washington State Governor
P.O. Box 40002
Olympia, Washington 98504-0002

April 14, 2011

Re: Medical Marijuana Legislative Proposals

Dear Honorable Governor Gregoire:

We write in response to your letter dated April 13, 2011, seeking guidance from the Attorney General and our two offices concerning the practical effect of the legislation currently being considered by the Washington State Legislature concerning medical marijuana. We understand that the proposals being considered by the Legislature would establish a licensing scheme for marijuana growers and dispensaries, and for processors of marijuana-infused foods among other provisions. We have consulted with the Attorney General and the Deputy Attorney General about the proposed legislation. This letter is written to ensure there is no confusion regarding the Department of Justice's view of such a licensing scheme.

As the Department has stated on many occasions, Congress has determined that marijuana is a controlled substance. Congress placed marijuana in Schedule I of the Controlled Substances Act (CSA) and, as such, growing, distributing, and possessing marijuana in any capacity, other than as part of a federally authorized research program, is a violation of federal law regardless of state laws permitting such activities.

The prosecution of individuals and organizations involved in the trade of any illegal drugs and the disruption of drug trafficking organizations is a core priority of the Department. This core priority includes prosecution of business enterprises that unlawfully market and sell marijuana. Accordingly, while the Department does not focus its limited resources on seriously ill individuals who use marijuana as part of a medically recommended treatment regimen in compliance with state law as stated in the October 2009 Ogden Memorandum, we maintain the authority to enforce the CSA vigorously against individuals and organizations that participate in unlawful manufacturing and distribution activity involving marijuana, even if such activities are permitted under state law. The Department's investigative and prosecutorial resources will continue to be directed toward these objectives.

Consistent with federal law, the Department maintains the authority to pursue criminal or civil actions for any CSA violations whenever the Department determines that such legal action is warranted. This includes, but is not limited to, actions to enforce the criminal provisions of the CSA such as:

- 21 U.S.C. § 841 (making it illegal to manufacture, distribute, or possess with intent to distribute any controlled substance including marijuana);

- 21 U.S.C. § 856 (making it unlawful to knowingly open, lease, rent, maintain, or use property for the manufacturing, storing, or distribution of controlled substances);

- 21 U.S.C. § 860 (making it unlawful to distribute or manufacture controlled substances within 1,000 feet of schools, colleges, playgrounds, and public housing facilities, and within 100 feet of any youth centers, public swimming pools, and video arcade facilities);

- 21 U.S.C. § 843 (making it unlawful to use any communication facility to commit felony violations of the CSA); and

- 21 U.S.C. § 846 (making it illegal to conspire to commit any of the crimes set forth in the CSA).

In addition, Federal money laundering and related statutes which prohibit a variety of different types of financial activity involving the movement of drug proceeds may likewise be utilized. The Government may also pursue civil injunctions, and the forfeiture of drug proceeds, property traceable to such proceeds, and property used to facilitate drug violations.

The Washington legislative proposals will create a licensing scheme that permits large-scale marijuana cultivation and distribution. This would authorize conduct contrary to federal law and thus, would undermine the federal government's efforts to regulate the possession, manufacturing, and trafficking of controlled substances. Accordingly, the Department could consider civil and criminal legal remedies regarding those who set up marijuana growing facilities and dispensaries as they will be doing so in violation of federal law. Others who knowingly facilitate the actions of the licensees, including property owners, landlords, and financiers should also know that their conduct violates federal law. In addition, state employees who conducted activities mandated by the Washington legislative proposals would not be immune from liability under the CSA. Potential actions the Department could consider include injunctive actions to prevent cultivation and distribution of marijuana and other associated violations of the CSA; civil fines; criminal prosecution; and the forfeiture of any

property used to facilitate a violation of the CSA. As the Attorney General has repeatedly stated, the Department of Justice remains firmly committed to enforcing the CSA in all states.

We hope this letter assists the State of Washington and potential licensees in making informed decisions regarding the cultivation, manufacture, and distribution of marijuana.

Very truly yours,

Jenny A. Durkan
United States Attorney
Western District of Washington

Michael C. Ormsby
United States Attorney
Eastern District of Washington

U.S. Department of Justice

United States Attorney
District of Montana

MICHAEL W. COTTER
United States Attorney

901 Front Street, Suite 1100
Helena, Montana 59626

406-457-5120

April 20, 2011

Senator Jim Peterson, Senate President
Representative Mike Milburn,
Speaker of the House of Representatives
PO Box 200500
Helena, Montana 59620-0500

Gentlemen:

This acknowledges receipt of your letter dated April 18, 2011, requesting Department of Justice guidance concerning a proposed regulatory scheme by the Montana Legislature for the use of marijuana and marijuana infused products for therapeutic purposes. While the Department of Justice has not reviewed the specific legislative proposal for licensing and regulating medical marijuana that you indicate is being finalized, the Department has stated on many occasions that Congress placed marijuana in Schedule I of the Controlled Substances Act (CSA) and, as such, growing, distributing, and possessing marijuana in any capacity, other than as part of a federally authorized research program, is a violation of federal law regardless of state laws that purport to permit such activities.

The prosecution of individuals and organizations involved in the trade of any illegal drugs and the disruption of drug trafficking organizations is a core priority of the Department. This core priority includes prosecution of business enterprises that unlawfully market and sell marijuana. While the Department generally does not focus its limited resources on seriously ill individuals who use marijuana as part of a medically recommended treatment regimen consistent with applicable state law, as stated in the October 2009 Ogden Memorandum, we maintain the authority to enforce the CSA against individuals and organizations that participate in unlawful manufacturing and distribution activity involving marijuana, even if such activities are permitted under state law. The Department's investigative and prosecutorial resources will continue to be directed toward these objectives.

Hopefully this letter assists the Montana Legislature in making its decisions regarding the cultivation, manufacture and distribution of marijuana.

Sincerely,

Michael W. Cotter
United States Attorney

ATTORNEY GENERAL OF COLORADO
John W. Suthers

April 26, 2011

Governor John Hickenlooper
Colorado State Capitol

Members of the Colorado General Assembly
Colorado State Capitol

Re: Federal Enforcement of Marijuana Laws

Dear Governor Hickenlooper and Members of the Colorado General Assembly:

I feel compelled to advise you of recent developments in regard to the federal law enforcement position regarding medical marijuana.

As you are aware, in October of 2009 the U.S. Department of Justice issued a memo to federal law enforcement (the "Ogden memo") indicating that, while manufacturing, possession and distribution of marijuana was a violation of federal law, the department would not employ its resources to pursue individuals acting in strict compliance with state medical marijuana laws.

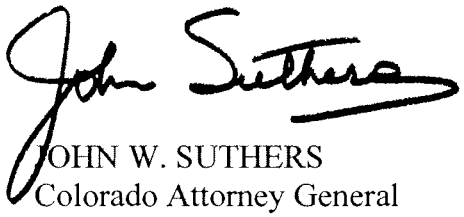
Since the Ogden memo was issued several states, including Colorado, have enacted medical marijuana regulatory schemes that have resulted in explosive growth in the number of persons claiming to be using marijuana for medical purposes. In Colorado for example, there are now approximately 123,000 registered medical marijuana patients. As a result, the DOJ, through various United States Attorneys, has responded to inquiries in order to clarify the scope of the Ogden memo. I am enclosing copies of several such letters, including a letter to me from John Walsh, the United States Attorney for the District of Colorado. These letters indicate that while the Department of Justice will not focus its limited resources on seriously ill individuals who use marijuana as part of a medically recommended treatment regimen in compliance with state law, it does maintain its full authority to vigorously enforce federal law against individuals and organizations that participate in unlawful manufacturing and distribution activity involving marijuana, *even if such activities are permitted under state law.* Of great concern is the fact that some of the letters make clear the U.S. Attorneys do not consider state employees who conduct activities under state medical marijuana laws to be immune from liability under federal law.

State Services Building • 1525 Sherman Street–7th Floor • Denver, Colorado 80203
Phone (303) 866-3557 • FAX (303) 866-4745

The letter from U.S. Attorney Walsh, in addition to sharing the viewpoint of the other U.S. Attorneys about the legality of grow operations and dispensaries, elaborates on his specific concerns regarding Colorado House Bill 1043, currently pending in the General Assembly.

Because this clarification of the Ogden memo raises significant issues regarding the medical marijuana regulatory scheme enacted by the Colorado General Assembly in 2010 (which has resulted in widespread manufacture and distribution of medical marijuana in Colorado) and issues regarding currently pending legislation, I wanted to ensure that you were made aware of these developments as soon as possible.

Sincerely,



JOHN W. SUTHERS
Colorado Attorney General

Enclosures

c: Roxy Huber, Executive Director, Department of Revenue
Dr. Christopher E. Urbina, Executive Director, CDPHE

U.S. DEPARTMENT OF JUSTICE

John F. Walsh

United States Attorney
District of Colorado

1225 Seventeenth Street, Suite 700
Seventeenth Street Plaza
Denver, Colorado 80202

303-454-0100
(FAX) 303-454-0400

April 26, 2011

John Suthers
Attorney General
State of Colorado
1525 Sherman St., 7th Floor
Denver, CO 80203

Dear Attorney General Suthers:

I am writing in response to your request for clarification of the position of the U.S. Department of Justice (the "Department") with respect to activities that would be licensed or otherwise permitted under the terms of pending House Bill 1043 in the Colorado General Assembly. I have consulted with the Attorney General of the United States and the Deputy Attorney General of the United States about this bill, and write to ensure that there is no confusion as to the Department's views on such activities.

As the Department has noted on many prior occasions, the Congress of the United States has determined that marijuana is a controlled substance, and has placed marijuana on Schedule I of the Controlled Substances Act (CSA). Federal law under Title 21 of the United States Code, Section 841, prohibits the manufacture, distribution or possession with intent to distribute any controlled substance, including marijuana, except as provided under the strict control provisions of the CSA. Title 21, Section 856 makes it a federal crime to lease, rent or maintain a place for the purpose of manufacturing, distributing or using a controlled substance. Title 21, Section 846 makes it a federal crime to conspire to commit that crime, or any other crime under the CSA. Title 18, Section 2 makes it a federal crime to aid and abet the commission of a federal crime. Moreover, federal anti-money laundering statutes, including Title 18, Section 1956, make illegal certain financial transactions designed to promote illegal activities, including drug trafficking, or to conceal or disguise the source of the proceeds of that illegal activity. Title 18, Section 1957, makes it illegal to engage in a financial transaction involving more than $10,000 in criminal proceeds.

In October 2009, the Department issued guidance (the "Ogden Memo") to U.S. Attorneys around the country in states with laws authorizing the use of marijuana for medical purposes

under state law. At the time the Ogden Memo issued, Colorado law, and specifically, Amendment 20 to the Colorado Constitution, authorized the possession of only very limited amounts of marijuana for medical purposes by individuals with serious illnesses and those who care for them.[1] As reiterated in the Ogden memo, the prosecution of individuals and organizations involved in the trade of any illegal drugs and the disruption of drug trafficking organizations is a core priority of the Department. This core priority includes prosecution of business enterprises that unlawfully market and sell marijuana. Accordingly, while the Department does not focus its limited resources on seriously ill individuals who use marijuana as part of a medically recommended treatment regimen in compliance with state law as stated in the Ogden Memo, we maintain the authority to enforce the CSA vigorously against individuals and organizations that participate in unlawful manufacturing and distribution activity involving marijuana, even if such activities are permitted under state law. The Department's investigative and prosecutorial resources will continue to be directed toward these objectives.

It is well settled that a State cannot authorize violations of federal law. The United States District Court for the District of Colorado recently reaffirmed this fundamental principle of our federal constitutional system in *United States v. Bartkowicz*, No. 10-cr-00118-PAB (D. Colo. 2010), when it held that Colorado state law on medical marijuana does not and cannot alter federal law's prohibition on the manufacture, distribution or possession of marijuana, or provide a defense to prosecution under federal law for such activities.

The provisions of Colorado House Bill 1043, if enacted, would permit under state law conduct that is contrary to federal law, and would threaten the ability of the United States government to regulate possession, manufacturing and trafficking in controlled substances, including marijuana. First, provisions of a proposed medical marijuana investment fund amendment to H.B. 1043, which ultimately did not pass in the Colorado House but which apparently may be reintroduced as an amendment in the Colorado Senate, appear to contemplate that the State of Colorado would license a marijuana investment fund or funds under which both Colorado and out-of-state investors would invest in commercial marijuana operations. The Department would consider civil and criminal legal remedies regarding those who invest in the production of marijuana, which is in violation of federal law, even if the investment is made in a state-licensed fund of the kind proposed.

Second, the terms of H.B. 1043 would authorize Colorado state licensing of "medical marijuana infused product" facilities with up to 500 marijuana plants, with the possibility of licensing even larger facilities, with no stated number limit, with a state-granted waiver based upon consideration of broad factors such as "business need." Similarly, the Department would consider civil actions and criminal prosecution regarding those who set up marijuana growing facilities and dispensaries, as well as property owners, as they will be acting in violation of federal law.

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[1] As passed by Colorado voters in 2000, Amendment 20 made lawful under Colorado law the possession by a patient or caregiver of patient of "[n]o more than two ounces of a useable form of marijuana or no more than six marijuana plants with three or fewer being mature, flowering plants producing a usable form of marijuana." Colo. Const. art. XVIII, § 14(4)(a). Within these limits, the Amendment authorized a medical marijuana "affirmative defense" to state criminal prosecution for possession of marijuana. Colo. Const. art. XVIII, § 14(2)(a), (b).

As the Attorney General has repeatedly stated, the Department of Justice remains firmly committed to enforcing the federal law and the Controlled Substances Act in all states. Thus, if the provisions of H.B. 1043 are enacted and become law, the Department will continue to carefully consider all appropriate civil and criminal legal remedies to prevent manufacture and distribution of marijuana and other associated violations of federal law, including injunctive actions; civil penalties; criminal prosecution; and the forfeiture of any property used to facilitate a violation of federal law, including the Controlled Substances Act.

I hope this letter provides the clarification you have requested, and assists the State of Colorado and its potential licensees in making informed decisions regarding the cultivation, manufacture, and distribution of marijuana, as well as related financial transactions.

Very truly yours,

JOHN F. WALSH
United States Attorney
District of Colorado

cc: Eric Holder, Attorney General of the United States
James Cole, Deputy Attorney General of the United States

U.S. Department of Justice

United States Attorney
District of Rhode Island

Fleet Center
50 Kennedy Plaza, 8th Floor
Providence, Rhode Island 02903

(401) 709-5000
FAX (401) 709-5001

April 29, 2011

BY HAND

The Honorable Lincoln D. Chafee
Governor of the State of Rhode Island
222 State House
Providence, RI 02903-1196

Re: Medical Marijuana

Dear Governor Chafee:

I write regarding the Rhode Island Department of Health's recent notification to three Rhode Island entities, the Thomas C. Slater Compassion Center, Inc., the Summit Medical Compassion Center, Inc., and the Greenleaf Compassionate Care Center, Inc., that their applications to operate medical marijuana "compassion centers" have been approved pursuant to the Edward O. Hawkins and Thomas C. Slater Medical Marijuana Act, R.I.G.L. 21-28.6-1, et seq. (the Act). It is my understanding that each of these three entities now await the issuance of a "registration certificate" by the Department of Health authorizing their operation.

I now write to ensure that there is no confusion regarding the United States Department of Justice's view of state-sanctioned schemes that purport to regulate the manufacture and distribution of medical marijuana.

As the Department has stated on many occasions, Congress has determined that marijuana is a controlled substance. Congress placed marijuana in Schedule I of the Controlled Substances Act (CSA) and, as such, growing, distributing, and possessing marijuana in any capacity, other than as part of a federally authorized research program, is a violation of federal law regardless of state laws permitting such activities.

The prosecution of individuals and organizations involved in the trade of any illegal drugs and the disruption of drug trafficking organizations is a core priority of the Department of Justice. This core priority includes the prosecution of business enterprises that

unlawfully market and sell marijuana. Accordingly, while the Department of Justice does not focus its limited resources on seriously ill individuals who use marijuana as part of a medically recommended treatment regimen in compliance with state law as stated in the October 2009 Memorandum of Deputy Attorney General David Ogden, the Department of Justice maintains the authority to enforce the CSA vigorously against individuals and organizations that participate in unlawful manufacturing and distribution activity involving marijuana, even if such activities are permitted under state law. The Department's investigative and prosecutorial resources will continue to be directed toward these objectives.

Consistent with federal law, the Department of Justice maintains the authority to pursue criminal and/or civil actions for any CSA violations whenever the Department determines that such legal action is warranted. This includes, but is not limited to, actions to enforce the criminal provisions of the CSA, such as:

- 21 U.S.C. § 841 (making it illegal to manufacture, distribute, or possess with intent to distribute any controlled substance, including marijuana);

- 21 U.S.C. § 856 (making it unlawful to knowingly open, lease, rent, maintain, or use property for the manufacturing, storing, or distribution of controlled substances);

- 21 U.S.C. § 860 (making it unlawful to distribute or manufacture controlled substances within 1,000 feet of schools, colleges, playgrounds, and public housing facilities, and within 100 feet of any youth centers, public swimming pools, and video arcade facilities);

- 21 U.S.C. § 843 (making it unlawful to use any communication facility to commit felony violations of the CSA); and

- 21 U.S.C. § 846 (making it illegal to conspire to commit any of the crimes set forth in the CSA).

In addition, federal money laundering and related statutes which prohibit a variety of different types of financial activity involving the movement of drug proceeds may likewise be utilized. The government may also pursue civil injunctions, and the forfeiture of drug proceeds, property traceable to such proceeds, and property used to facilitate drug violations.

The Act, the registration scheme it purports to authorize, and the anticipated operation of the three centers appear to permit large-

scale marijuana cultivation and distribution. Such conduct is contrary to federal law and thus, undermines the federal government's efforts to regulate the possession, manufacturing, and trafficking of controlled substances. Accordingly, the Department of Justice could consider civil and criminal legal remedies against those individuals and entities who set up marijuana growing facilities and dispensaries as such actions are in violation of federal law. Others who knowingly facilitate those individuals and entities who set up marijuana growing facilities and dispensaries, including property owners, landlords, and financiers, should also know that their conduct violates federal law. Potential actions the Department of Justice could consider include injunctive actions to prevent cultivation and distribution of marijuana and other associated violations of the CSA; civil fines; criminal prosecution; seizure of the controlled substances and seizure and forfeiture of any personal and real property used to facilitate the production and distribution of controlled substances, or that is derived from a violation of the CSA. As the Attorney General of the United States has repeatedly stated, the Department of Justice remains firmly committed to enforcing the CSA in all states.

I hope this letter provides clarification and assists the State of Rhode Island and its potential licensees in making informed decisions regarding the cultivation, manufacture, and distribution of marijuana, as well as related financial transactions.

Sincerely,

Peter F. Neronha
United States Attorney

cc: Michael Fine, M.D., Interim Director, Rhode Island Department of Health
Gerald J. McGraw, Jr., Thomas C. Slater Compassion Center, Inc.
Alan B. Weitberg, M.D., Summit Medical Compassion Center, Inc.
Seth Bock, Greenleaf Compassionate Care Center, Inc.

U.S. Department of Justice

United States Attorney
District of Arizona

Two Renaissance Square
40 North Central Avenue, Suite 1200
Phoenix, Arizona 85004-4408

Main: (602) 514-7500
Main FAX: (602) 514-7693

May 2, 2011

Will Humble
Director
Arizona Department of Health Services
150 N. 18th Avenue
Phoenix, Arizona 85007

Re: Arizona Medical Marijuana Program

Dear Mr. Humble:

I understand that on April 13, 2011, the Arizona Department of Health Services filed rules implementing the Arizona Medical Marijuana Act (AMMA), passed by Arizona voters on November 2, 2010. The Department of Health Services rules create a regulatory scheme for the distribution of marijuana for medical use, including a system for approving, renewing, and revoking registration for qualifying patients, care givers, nonprofit dispensaries, and dispensary agents. I am writing this letter in response to numerous inquiries and to ensure there is no confusion regarding the Department of Justice's view of such a regulatory scheme.

The Department has advised consistently that Congress has determined that marijuana is a controlled substance, placing it in Schedule I of the Controlled Substances Act (CSA). That means growing, distributing, and possessing marijuana in any capacity, other than as part of a federally authorized research program, is a violation of federal law regardless of state laws that purport to permit such activities. As has been the case for decades, the prosecution of individuals and organizations involved in the trade of illegal drugs and the disruption of illegal drug manufacturing and trafficking networks, is a core priority of the Department of Justice. The United States Attorney's Office for the District of Arizona ("the USAO") will continue to vigorously prosecute individuals and organizations that participate in unlawful manufacturing, distribution and marketing activity involving marijuana, even if such activities are permitted under state law.

An October, 2009, memorandum from then-Deputy Attorney General Ogden provided guidance that, in districts where a state had enacted medical marijuana programs, USAOs ought not focus their limited resources on those seriously ill individuals who use marijuana as part of a medically recommended treatment regimen and are in clear and unambiguous compliance with such state laws. And, as has been our policy, this USAO will continue to follow that guidance. The public should understand, however, that even clear and unambiguous compliance with AMMA does not render possession or distribution of marijuana lawful under federal statute.

Moreover, the CSA may be vigorously enforced against those individuals and entities who operate large marijuana production facilities. Individuals and organizations – including property owners, landlords,

and financiers – that knowingly facilitate the actions of traffickers also should know that compliance with AMMA will not protect them from federal criminal prosecution, asset forfeiture and other civil penalties. This compliance with Arizona laws and regulations does not provide a safe harbor, nor immunity from federal prosecution.

The USAO also has received inquiries about our approach to AMMA in Indian Country, which comprises nearly one third of the land and five percent of the population of Arizona, and in which state law – including AMMA – is largely inapplicable. The USAO currently has exclusive felony jurisdiction over drug trafficking offenses in Indian Country. Individuals or organizations that grow, distribute or possess marijuana on federal or tribal lands will do so in violation of federal law, and may be subject to federal prosecution, no matter what the quantity of marijuana. The USAO will continue to evaluate marijuana prosecutions in Indian Country and on federal lands on a case-by-case basis. Individuals possessing or trafficking marijuana in Indian Country also may be subject to tribal penalties.

I hope that this letter assists the Department of Health Services and potential registrants in making informed choices regarding the possession, cultivation, manufacturing, and distribution of medical marijuana.

Sincerely yours,

Dennis Burke

DENNIS K. BURKE
United States Attorney
District of Arizona

U.S. Department of Justice

United States Attorney
District of Vermont

United States Courthouse and Federal Building
Post Office Box 570
Burlington, Vermont 05402-0570

(802) 951-6725
Fax: (802) 951-6540

May 3, 2011

Commissioner Keith W. Flynn
Vermont Department of Public Safety
103 South Main Street
Waterbury, VT 05671-0001

Dear Commissioner Flynn:

I am writing in response to Deputy Commissioner Rosemary Gretkowski's request for information about the Department of Justice's position on marijuana dispensary legislation, specifically, on S. 17, a bill that would establish registered marijuana dispensaries in Vermont. The purpose of this letter is to ensure there is no confusion regarding the Department of Justice's view of such state-authorized marijuana dispensary operations.

As the Department has stated on many occasions, Congress has determined that marijuana is a controlled substance. Congress placed marijuana in Schedule I of the Controlled Substances Act (CSA) and, as such, growing, distributing, and possessing marijuana in any capacity, other than as part of a federally authorized research program, is a violation of federal law regardless of state laws purporting to permit such activities.

The prosecution of individuals and organizations involved in the trade of any illegal drugs and the disruption of drug trafficking organizations is a core priority of the Department. This core priority includes prosecution of business enterprises that unlawfully cultivate and sell marijuana. Accordingly, while the Department does not focus its limited resources on seriously ill individuals who use marijuana as part of a medically recommended treatment regimen in compliance with state law as stated in the October 2009 Ogden Memorandum, we will enforce the CSA vigorously against individuals and organizations that participate in unlawful manufacturing and distribution activity involving marijuana, even if such activities are permitted under state law. The Department's investigative and prosecutorial resources will continue to be directed toward these objectives.

Consistent with federal law, the Department maintains the authority to pursue criminal or civil actions for any CSA violations whenever the Department determines that such legal action is warranted. This includes, but is not limited to, actions to enforce the criminal provisions of the CSA such as Title 21, United States Code, Section 841, making it illegal to manufacture, distribute, or possess with intent to distribute any controlled substance including marijuana; Title 21, United States Code, Section 856, making it unlawful to knowingly open, lease, rent,

maintain, or use property for the manufacturing, storing, or distribution of controlled substances; and Title 21, United States Code, Section 846, making it illegal to conspire to commit any of the crimes set forth in the CSA. Federal money laundering and related statutes which prohibit a variety of different types of financial activity involving the movement of drug proceeds may likewise be utilized. The government may also pursue civil injunctions, and the forfeiture of drug proceeds, property traceable to such proceeds, and property used to facilitate drug violations.

The Department is concerned about the significant marijuana cultivation and manufacturing operation contemplated in S. 17 as it would involve conduct contrary to federal law and threatens the federal government's efforts to regulate the possession, manufacturing, and trafficking of controlled substances. Accordingly, the Department will carefully consider legal remedies against those who facilitate or operate marijuana dispensaries or marijuana distribution or production as contemplated by S. 17, should that measure become law. Individuals who elect to operate marijuana cultivation facilities will be doing so in violation of federal law. Others who knowingly facilitate such industrial cultivation activities, including property owners, landlords, and financiers, should also know that their conduct violates federal law. Potential actions the Department may consider include injunctive actions to prevent cultivation and distribution of marijuana and other associated violations of the CSA; civil fines; criminal prosecution; and the forfeiture of any property used to facilitate a violation of the CSA. As the Attorney General has repeatedly stated, the Department of Justice remains firmly committed to enforcing the CSA in all states.

I hope this letter assists you in making informed decisions regarding proposed marijuana dispensary legislation such as S. 17.

Very truly yours,

TRISTRAM J. COFFIN
United States Attorney
District of Vermont

ATTORNEY GENERAL
DEPARTMENT OF JUSTICE

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

MICHAEL A. DELANEY
ATTORNEY GENERAL

[redacted]

May 10, 2011

Honorable Jeb Bradley
State House Room 302
107 North Main Street
Concord, NH 03301

Re: House Bill 442; relative to the use of marijuana for medicinal purposes

Dear Senator Bradley:

I am writing to voice my opposition to House Bill 442, relative to medical marijuana, including the floor amendment that is currently being considered by the Senate.

I am firmly opposed to House Bill 442 because it will authorize the establishment of state-sanctioned operations for the cultivation and distribution of marijuana—operations that constitute criminal violations under the federal law. While the US Department of Justice has taken the position that it will not focus enforcement efforts on seriously ill individuals who use marijuana as part of a medically recommended treatment program consistent with applicable state laws, it has stated that it will enforce the laws against individuals and organizations that participate in the business of manufacturing and distributing marijuana, even if permissible under state law. Attached is a letter from John Kacavas, U.S. Attorney for the District of New Hampshire, confirming that position. By enacting this bill, the legislature would be giving individuals and state employees false assurance that they will be immune from criminal liability for their activities under the law.

Above and beyond the illegality of the proposed system under federal law, I have a number of other concerns. First, the bill does not prohibit alternative treatment centers from acquiring marijuana from any source, including illegal drug dealers within and without the state. It is simply bad policy to allow state-sanctioned services to be founded on the procurement of contraband. Another potential source of marijuana is out-of-state individuals and entities who are authorized to cultivate medical marijuana in their home state. By allowing that, this state would be encouraging interstate distribution of a controlled drug, which is a clear violation of the federal law.

The bill creates a concern for law enforcement. The bill provides for immunity from arrest for any qualified patient or caregiver who is in possession of less than one-half ounce of

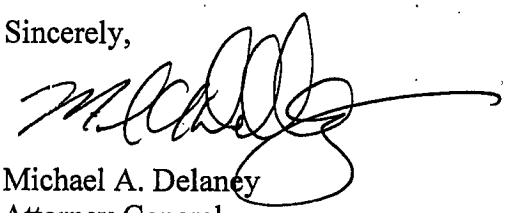
marijuana. However, there is no requirement that marijuana dispensed by the treatment center be retained in its original packaging. Thus, law enforcement has no ability to determine if, in fact, that substance was lawfully obtained. Further, the bill appears to permit designated caregivers to service an unlimited number of patients. This will create confusion as to how much marijuana a caregiver will lawfully be allowed to possess at any one time. Also, it is unknown how much marijuana any alternative treatment center will be allowed to lawfully acquire, cultivate, possess and distribute since it is unknown how many individuals will be designated as registered qualifying patients.

Given the experiences of other states that have attempted to implement similar laws, it is clear that a well-established regulatory system is critical to maintaining control over marijuana dispensaries. Despite the bill's clear statement that no state funds shall be used to implement or administer the chapter, the Department of Health and Human Services will, by necessity, be required to expend time and resources to develop that system before any alternative treatment centers are certified. The Department will have to promulgate rules, create a system for issuing the various identification cards, and review applications, among other things. My Office will be required to expend resources to provide legal counsel to the Department. Yet, there is no fiscal note attached to the bill. I have grave concerns about the adequacy of the regulatory system that will be created given the significant financials constraints the Department is experiencing.

Finally, the amendment calls for the Department of Health and Human Services to lower its standards for certification of an additional treatment center if, after two years, the registered alternative treatment centers in operation are not sufficient to ensure access of marijuana to registered qualifying patients. In that instance, the bill mandates the Department to issue a registration certificate to the applicant which "achieves the highest score," regardless of whether the Department considers that score sufficient.

For all these reasons, I urge you to vote House Bill 442 inexpedient to legislate.

Sincerely,



Michael A. Delaney
Attorney General

#610844

U.S. Department of Justice

John P. Kacavas
United States Attorney
District of New Hampshire

Federal Building
53 Pleasant Street
Concord, New Hampshire 03301

Phone 603-225-1552
Fax 603-226-7789

May 10, 2011

Attorney General Michael A. Delaney
New Hampshire Department of Justice
33 Capitol Street
Concord, New Hampshire 03301-6397

In re: House Bill 442

Dear Attorney General Delaney:

I am writing in response to your request for guidance on "the position of the United States Department of Justice [the Department] as it relates to enforcement of 21 U.S.C. Chapter 13, the Uniform Controlled Substances Act, against state-established treatment centers that would dispense, produce and process marijuana for medical use by qualifying patients." This letter will set forth the Department's view of state-sanctioned schemes that purport to regulate the manufacture and distribution of medical marijuana.

As you know, Congress has determined that marijuana is a controlled substance and, as such, has placed it in Schedule I of the Controlled Substances Act (CSA). Accordingly, growing, distributing and possessing marijuana in any capacity, other than as part of a federally authorized research program, is a violation of federal law despite state laws permitting such activities.

The disruption of drug trafficking organizations and the prosecution of individuals and organizations involved in the trade of any illegal drugs is a core priority of the Department. This core priority includes the prosecution of business enterprises that unlawfully market and sell marijuana. As I publicly stated last year, while my office will not focus its limited resources on seriously ill individuals who use marijuana as part of a medically recommended treatment regimen that complies with state law, the Department maintains the authority to enforce the CSA vigorously against organizations and individuals who unlawfully manufacture and distribute marijuana, even if such activities are permitted under state law. The Department's investigative and prosecutorial resources will continue to be directed toward these objectives.

Consistent with federal law, the Department maintains the authority to pursue criminal and/or civil actions for any CSA violation when the Department determines that legal action is warranted. This includes, but is not limited to, actions to enforce the criminal provisions of the CSA, such as:

- 21 U.S.C. § 841 (making it illegal to manufacture, distribute, or possess with intent to distribute any controlled substance, including marijuana);

- 21 U.S.C. § 856 (making it unlawful to knowingly open, lease, rent, maintain, or use property for the manufacturing, storing, or distribution of controlled substances);

- 21 U.S. C. § 860 (making it unlawful to distribute or manufacture controlled substances within 1,000 feet of schools, colleges, playgrounds and public housing facilities, and within 100 feet of any youth centers, public swimming pools, and video arcade facilities);

- 21 U.S.C. § 843 (making it unlawful to use any communication facility to commit felony violations of the CSA); and

- 21 U.S.C. § 846 (making it illegal to conspire to commit any of the crimes set forth in the CSA).

Additionally, federal money laundering and related statutes that prohibit financial activities that facilitate the movement of drug proceeds may also be utilized. The government may also pursue civil injunctions and the forfeiture of drug proceeds, property traceable to such proceeds, and property used to facilitate drug violations.

As I understand it, House Bill 442 would authorize the New Hampshire Department of Health and Human Services (DHHS) to register an unlimited number of treatment centers to cultivate, process and dispense marijuana. Accordingly, the legislation appears to permit large-scale marijuana cultivation and distribution, which is contrary to federal law and undermines the federal government's efforts to regulate the possession, manufacturing, and trafficking of controlled substances. Accordingly, the Department could consider civil and criminal legal remedies against those entities and individuals who establish marijuana growing facilities and dispensaries, as such actions constitute a violation of federal law. Others, including property owners, landlords, and financiers who knowingly assist those entities and individuals should be aware that their conduct also violates federal law. Consequently, the Department could consider pursuing injunctive actions to prevent cultivation and distribution of marijuana and other associated violations of the CSA, civil fines, criminal prosecutions, seizure of the controlled substances, and seizure and forfeiture of any personal and real property used to facilitate the

production and distribution of controlled substances, or that is derived from a violation of the CSA. As the Attorney General of the United States has stated repeatedly, the Department remains firmly committed to enforcing the CSA in all states.

I hope you find this letter responsive to your request regarding the Department's position on the state-sanctioned cultivation, manufacture and distribution of marijuana, as well as related financial transactions.

Sincerely,

John P. Kacavas

JPK/tal

U.S. Department of Justice

United States Attorney
District of Maine

100 Middle Street
6th Floor, East Tower
Portland, ME 04101

(207) 780-3257
TTY (207) 780-3060
Fax (207) 780-3304
www.usdoj.gov/usao/me

May 16, 2011

Hon. Earle L. McCormick
Maine State Senate
100 State House Station
Augusta, ME 04333-0100

Hon. Meredith N. Strang Burgess
Maine House of Representatives
100 State House Station
Augusta, ME 04333-0100

Re: Medical Marijuana Act Legislation

Dear Senator McCormick and Representative Strang Burgess:

I am in receipt of your letter inquiring whether this office has concerns about legislation to amend Maine's Medical Marijuana Act (MMA) now pending before the 125th Legislature and your Committee on Health and Human Services. I write to ensure that there is no confusion regarding the United States Department of Justice's view on such legislative proposals.

We can neither endorse nor comment on the specifics of the MMA or the proposed amendments other than to advise you those activities by users (patients), caregivers and dispensaries remain illegal under the federal Controlled Substances Act (CSA).

This office has consulted with leadership offices within the Department of Justice to assure that our response is consistent with replies of United States Attorneys in other districts.

Congress has determined that marijuana is a controlled substance and has placed marijuana in Schedule I of the CSA. As such, growing, distributing, and possessing marijuana in any capacity, other than as part of a federally authorized research program, is a violation of federal law regardless of state laws permitting such activities.

The prosecution of individuals and organizations involved in the trade of any illegal drugs and the disruption of drug trafficking organizations are core priorities of the Department. This priority includes prosecution of individuals and enterprises that unlawfully cultivate and sell marijuana. Accordingly, while the Department does not focus its limited resources on seriously ill individuals who use marijuana as part of a medically recommended treatment regimen in compliance with state law as stated in the October 2009 Memorandum by then Deputy Attorney General David Ogden, we will enforce the CSA vigorously against individuals and organizations

that participate in unlawful manufacturing and distribution activity involving marijuana, even if such activities are permitted under state law. The Department's investigative and prosecutorial resources will continue to be directed toward these objectives.

It is well settled that no state can authorize violations of federal law. Claims of compliance with state or local law may mask operations inconsistent with the terms, conditions or purposes of those federal laws.

Consistent with federal law, the Department maintains the authority to pursue criminal or civil actions for any CSA violations whenever it is determined that such legal action is warranted. This includes, but is not limited to, actions regarding the manufacturing, distribution or possession with intent to distribute any controlled substance including marijuana, as well as conduct to knowingly open, lease, rent, maintain, or use property for the manufacturing, storing, or distribution of controlled substances; and, conduct to conspire to commit any of the crimes set forth in the CSA. Federal money laundering and related statutes, which prohibit a variety of different types of financial activity involving the movement of drug proceeds, may likewise be utilized. The government may also pursue civil injunctions, and the forfeiture of drug proceeds, properly traceable to such proceeds, and property used to facilitate drug violations.

The Department is concerned about recent efforts to amend Maine's Medical Marijuana Act, as the legislation involves conduct contrary to federal law and threatens the federal government's efforts to regulate controlled substances. The Department of Justice remains firmly committed to enforcing the CSA in all states.

Any decision to pursue civil or criminal remedies will be made on a case by case basis and using the prosecutorial discretion vested in this office.

I hope this letter provides clarification and assists the State of Maine to make informed decisions regarding legislative efforts on the subject of medical marijuana.

Very truly yours,

T. E. Delahanty II

Thomas E. Delahanty II
United States Attorney

TED/br
cc: William J. Schneider, Attorney General
Jane Orbeton