



Casualty Actuarial Society

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Purple Haze: Marijuana Legalization and the Impacts on Insurance



Disclaimer

The views expressed by the participants in this program are not those of the participants' employers, their clients, or any other organization. The opinions expressed do not constitute legal advice, or risk management advice. The views discussed are for educational purposes only, and provided only for use during this session.

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History of Cannabis - Early History

- The history of cannabis use goes back as far as 12,000 years, which places the plant among humanity's oldest cultivated crops, according to information in the book "Marihuana: The First Twelve Thousand Years".¹
- Burned cannabis seeds have also been found in kurgan burial mounds in Siberia dating back to 3,000 B.C., and some of the tombs of noble people buried in Xinjiang region of China and Siberia around 2500 B.C. have included large quantities of mummified psychoactive marijuana.



History of Cannabis - 1700's

- Guess who...?
- Journal entries also show George Washington grew cannabis with a high THC content.
- Farmers were required by U.S. Law to grow hemp.



History of Cannabis - 1800's

- Cannabis comes to the United Kingdom in 1842 via Dr. William O'Shaughnessy and reportedly used by Queen Victoria for menstrual cramps.
- UK and French doctor's found that cannabis
 - Relieved headaches
 - Aided sleep
 - Increased appetite



History of Cannabis - 1900-1950

- In 1918, US pharmaceutical farmers grew 60,000 pounds of cannabis annually.
- On February 19, 1925, the League of Nations (now United Nations) sign a multilateral treaty restricting cannabis use to scientific and medical purposes only. Restrictions on importing and exporting cannabis resin are put into place. This convention is the first multilateral treaty that deals with cannabis.



History of Cannabis - 1900-1950 (Cont.)

- In 1930, Harry J. Anslinger was appointed the commissioner of the Federal Bureau of Narcotics.
- Mr. Anslinger became the architect of national prohibition. His case rested on two assertions: that cannabis caused insanity; that it pushed people towards horrendous acts of criminality.¹
- In 1933, William Randolph Hearst denounced cannabis and used his newspapers to push the passage of the Marijuana Tax Act of 1937.
- Mr. Hearst reportedly had financial interests in the lumber and paper industries and sought to eliminate completion from hemp. He then dropped the words cannabis and hemp from his newspapers and began a propaganda campaign against 'marijuana', following in Mr. Anslinger's footsteps.²



¹ New York Times "The Federal Marijuana Ban Is Rooted in Myth and Xenophobia," New York Times, July 29, 2014

² Julie Holland, MD The Pot Book: A Complete Guide to Cannabis: Its Role in Medicine, Politics, Science, and Culture, 2010. Julie Holland, MD The Pot Book: A Complete Guide to Cannabis: Its Role in Medicine, Politics, Science, and Culture, 2010.

History of Cannabis - 1900-1950 (Cont.)

- In 1936 new medications supplant cannabis as treatment for pain.
- "By the end of 1936... All 48 states had enacted laws to regulate marijuana. Its decline in medicine was hastened by the development of aspirin, morphine, and then other opium-derived drugs, all of which helped to replace marijuana in the treatment of pain and other medical conditions in Western medicine."¹
- Reefer Madness film cautions against marijuana. It was financed by a small church group, and was intended to scare the living bejeezus out of every parent who viewed it.
- By 1936 all states outlawed cannabis for anything other than medical purposes.
- In 1937 Marijuana Tax Act leads to decline in marijuana prescriptions.
- Cannabis was removed from the US Pharmacopeia in 1942, thus losing its remaining mantle of therapeutic legitimacy.



¹ Mark Eddy CRS Report for Congress: "Medical Marijuana: Review and Analysis of Federal and State Policies" (515 KB) Apr. 2, 2010

History of Cannabis - 1950-1969

- In 1951 the Boggs Act established minimum prison sentences of two-to-five year's minimum for simple possession for first offenses.
- "The driving force behind the Boggs Act was a mistaken belief that drug addiction was a contagious and perhaps incurable disease and that addicts should be quarantined and forced to undergo treatment."¹
- Inclusion of cannabis in the Narcotics Control Act leads to stricter penalties for cannabis possession. A first-offense carries a minimum sentence of 2-10 years and with a fine of up to \$20,000.
- On April 8, 1968 President Johnson Creates the Bureau of Narcotics and Dangerous Drugs.
- In 1968 the Wootton Report which was written by the UK government's Advisory Committee and Drug Dependence finds the "the long term consumption of cannabis in moderate doses has no harmful effects... Cannabis is less dangerous than the opiates, amphetamines and barbiturates, and also less dangerous than alcohol..."² The report's influence is seen in future British drug policies that reduce penalties for possession of marijuana by 50%.



¹ Families Against Mandatory Minimums Correcting Course: Lessons from the 1970 Repeal of Mandatory Minimums.

² Stephen Abrams, PhD "Soma, the Wootton Report and Cannabis Law Reform in Britain during the 1960s and 1970s," A Cannabis Reader: Global Issues and Local Experiences, www.emcdda.europa.eu, 2008.

History of Cannabis - 1970-1989

- The Controlled Substance Act classifies cannabis as a drug with “No Accepted Medical Use” which placed cannabis as a Schedule I drug which are drugs that the US Government defines as having a high potential for abuse and no currently accepted medical use in treatment in the United States.
- At a June 17, 1971 press conference, President Nixon declares the War on Drugs.
- Drug Enforcement Agency (DEA) was established in 1973. Today the US spends over \$51 billion dollars a year on the War on Drugs.
- In 1974, the National Institute on Drug Abuse (NIDA) was established.
- Since its inception in 1974, NIDA has been the sole administrator of a contract to grow cannabis for research purposes through the University of Mississippi.

In 1980, the National Cancer Institute (NCI) began experimental distribution of a new drug called Marinol, an oral form of THC (the primary active ingredient in marijuana), to cancer patients in San Francisco. Simultaneously, six states conducted studies comparing smoked marijuana to oral THC in cancer patients who had not responded to traditional anti-vomiting medication. These state-sponsored studies revealed that thousands of patients found marijuana safer and more effective than synthetic THC. Meanwhile, the NCI experiments showed that some patients responded well to Marinol. Confronted with two different medical recommendations, the government chose to dismiss the state studies and give Marinol the green light.¹



¹ “Kambiz Akhavan “Marinol vs. Marijuana: Politics, Science, and Popular Culture,” drugtext.org, 1997.

History of Cannabis - 1970-1989 (Cont.)

- In May of 1985 Marinol was approved by the FDA.
- "Made by Unimed, Marinol is the trade name for dronabinol, a synthetic form of delta-9 tetrahydrocannabinol (THC), one of the principal psychoactive components of botanical marijuana. It was approved in May 1985 for nausea and vomiting associated with cancer chemotherapy in patients who fail to respond to conventional antiemetic treatments. In December 1992, it was approved by FDA for the treatment of anorexia associated with weight loss in patients with AIDS. Marketed as a capsule, Marinol was originally placed in Schedule II."¹
- "The evidence in this record clearly shows that marijuana has been accepted as capable of relieving the distress of great numbers of very ill people, and doing so with safety under medical supervision. It would be unreasonable, arbitrary and capricious for DEA to continue to stand between those sufferers and the benefits of this substance in light of the evidence in this record."²
- On Dec. 30, 1989 the DEA Administrator Jack Lawn overruled the decision of Judge Francis Young had agreed with marijuana advocates that marijuana should be moved from Schedule I to Schedule II of the Controlled Substances Act. This proposed rescheduling of marijuana would have allowed physicians to prescribe the smoking of marijuana as a legal treatment for some forms of illness.



¹ Mark Eddy CRS Report for Congress: "Medical Marijuana: Review and Analysis of Federal and State Policies"

² Francis L. Young "Ruling in the matter of Marijuana Rescheduling Petition" (2.6 MB), Sep. 6, 1988

History of Cannabis - 1990-1999

- Scientists discover Cannabinoid Receptors in 1990.
- The discovery helped scientists understand the pharmacological effects of cannabinoids, which occur when the THC in marijuana binds with the cannabinoid receptors in the brain. These receptors are located throughout the body and they play a significant role in appetite, pain-sensation, mood and memory.
- In July of 1991, 53% of Oncologists surveyed said cannabis should be available by prescription.

"A random-sample, anonymous survey of the members of the American Society of Clinical Oncology (ASCO) was conducted in spring 1990 measuring the attitudes and experiences of American oncologists concerning the antiemetic use of marijuana in cancer chemotherapy patients. A surprising proportion of respondents (432, 44%) said they had recommended marijuana to at least one patient. Six hundred eight respondents (63%) agreed with the statement affirming the efficacy of marijuana in the treatment of emesis and 77 respondents (8%) disagreed. Of the 599 respondents with opinions, 53% favored making marijuana available by prescription."¹



¹ Mark A. R. Kleiman, PhD Richard Doblin, PhD "Marijuana as Antiemetic Medicine: A Survey of Oncologists' Experiences and Attitude," Annals of Internal Medicine, July 1991.

History of Cannabis - 1990-1999 (Cont.)

- In March of 1993, the American Medical Student Association unanimously endorsed rescheduling of cannabis. The association represented 48,000 medical students and residents.
- "AMSA delegates unanimously endorsed a statement calling on the new Attorney General, Janet Reno, to abide by the 1988 recommendation of Judge Young and move Cannabis to Schedule 2. They also unanimously passed a resolution asking President Clinton to reopen the Compassionate IND program."¹ On February 18, 1994, a final decision in a 1972 court battle over cannabis rescheduling keeps the plant in a Schedule I status.
- "In 1972, a petition was submitted to the Bureau of Narcotics and Dangerous Drugs (now known as the Drug Enforcement Agency, or DEA) to reschedule marijuana to Schedule II, enabling legal physician prescription. A series of court battles ensued pertaining to this petition for the next 22 years. A final decision was not rendered until February 18, 1994, by the US Court of Appeals (DC Circuit) in which the DEA's decision to keep marijuana in Schedule I was upheld. While the petition eventually failed, it created an environment of uncertainty regarding the potential federal scheduling of marijuana that persisted throughout the 1970s and early 1980s."²
- On November 5, 1996, voters in California passed a State medical marijuana initiative known as Proposition 215, becoming the first State to legalize medical marijuana.



¹ Irvin Rosenfeld My Medicine: How I Convinced the US Government to Provide My Marijuana and Helped Launch a National Movement, 2010.

² Rosalie Liccardo Pacula, PhD "State Medical Marijuana Laws: Understanding the Laws and Their Limitations," Journal of Public Health Policy, 2002.

History of Cannabis - 1990-1999 (Cont.)

- On November 3, 1998, Alaska, Oregon and Washington become the 2nd, 3rd and 4th States to legalize medical marijuana. The percentages of voter approval was 58%, 55% and 59%, respectively.
- The UK House of Lords Committee recommends legalizing medical marijuana on November 11, 1998.
- 'We have seen enough evidence to convince us that a doctor might legitimately want to prescribe cannabis to relieve pain, or the symptoms of multiple sclerosis (MS), and that the criminal law ought not to stand in the way. Far from being a steps towards general legalization, our recommendation would make the ban on recreational use easier to enforce. Above all, it would show compassion to patients who currently risk prosecution to get help."¹
- In July of 1999, Marinol was moved to a Schedule III to increase availability to patients.
- "In July 1999, in response to a rescheduling petition from Unimed, [Marinol] was moved administratively by DEA to Schedule III to make it more widely available to patients. The rescheduling was granted after a review by DEA and the Department of Health and Human Services found little evidence of illicit abuse of the drug. In Schedule III, Marinol is now subject to fewer regulatory controls and lesser criminal sanctions for illicit use."²
- In the fall of 1999, Health Canada (equivalent to DHHS in the US) announces funding for medical research on cannabis. Maine becomes the fifth state to legalize medical marijuana a few months later when Question 2 was passed with 61% of the vote.



¹ "House of Lords Select Committee on Science and Technology "Lords Say, Legalize Cannabis for Medical Use," Press Release, Nov. 11, 1998.

² Mark Eddy CRS Report for Congress: "Medical Marijuana: Review and Analysis of Federal and State Policies" 515 KB).

History of Cannabis - 2000-2004

- On June 14, 2000, Hawaii becomes the sixth State to legalize medical marijuana. Five months later Colorado and Nevada become seventh and eighth states to legalize medical marijuana. Senate Bill 862 in HI was passed by a vote of 32-18 in the House and 13-12 in the Senate while 54% of voters in CO approved Amendment 20 and 65% of voters in Nevada approved Question 9.
- In May of 2001, the Supreme Court rules "There is no medical necessity exception to the Controlled Substances Act". The Court ruled 8-0.
- In 2002, the only study conducted on the FDA's IND program finds that medical marijuana improves their quality of life.
- "NIDA cannabis is shipped to patients in labeled metal canisters containing 300 cigarettes, and material is frequently two or more years old upon receipt... A close inspection of the contents of NIDA-supplied cannabis cigarettes reveals them to be a crude mixture of leaf with abundant stem and seed components." The study concludes that "cannabis smoking, even of a crude, low-grade product, provides effective symptomatic relief of pain, muscle spasms, and intraocular pressure elevations..." and that "clinical cannabis patients are able to reduce or eliminate other prescription medicines and their accompanying side affects." According to the study, "clinical cannabis provides an improved quality of life in these patients... The side effect profile of NIDA cannabis in chronic usage suggests some mild pulmonary risk." The authors of the study recommend reopening the Compassionate IND program or amending laws to allow access to clinical cannabis.¹



¹ Ethan Russo, MD "Chronic Cannabis Use in the Compassionate IND Program," Journal of Cannabis Therapeutics, Jan. 2002.

History of Cannabis - 2000-2004 (Cont.)

- The U.S. Department of Justice issued a memorandum (Cole Memo) in August of 2013. The Memo provided guidance to federal prosecutors concerning marijuana enforcement under the CSA in light of conflicting state laws. The Cole Memo directs federal attorneys and law enforcement under the CSA in light of conflicting state laws. The Cole Memo directs federal attorneys and law enforcement to focus enforcement resources on persons or organizations whose conduct interferes with eight identified priorities (Cole Memo priorities). The priorities include preventing the distribution of marijuana to minors, preventing revenue from the sale of marijuana from going to criminal enterprises, and preventing the diversion of marijuana from states where it is legal to states where it is illegal.
- On July 23, 2003 the US House of Representatives rejects an amendment to stop Federal raids on medical marijuana patients.
- "Today [July 23, 2003] the House of Representatives rejected an amendment aimed at stopping federal raids on patients who use marijuana and people who provide it to them in states that recognize the drug as a medicine. Sponsored by Reps. Maurice Hinchey (D-N.Y.) and Dana Rohrabacher (R.-Calif.), the amendment would have forbidden the Justice Department (which includes the Drug Enforcement Administration) from spending money to tear up plants, close down clubs, or arrest patients or providers. The amendment was defeated by a vote of 273 to 152, which is closer than might have been expected. The vote in favor of a 1998 House resolution condemning state medical marijuana laws was 310 to 93."¹
- Three month later on October 7, 2003, the US Government receives a cannabinoid patent.²
- The US Department of Health and Human Services receives a patent (US 6,630,507 B1) for the therapeutic use of "cannabinoids as antioxidants and neuroprotectants." The abstract says in part: "Cannabinoids have been found to have antioxidant properties... The cannabinoids are found to have particular application as neuroprotectants... in the treatment of neurodegenerative diseases such as Alzheimer's disease..."

¹ Jacob Sullum "Growing Outrage," Reason.com, July 23, 2003.

² US patent 6,630,507 B1 (1.5 MB), Oct. 3, 2007.

History of Cannabis - 2005-2009 (Cont.)

- On December 12, 2005, Federal Agents execute widespread raid on medical marijuana dispensaries in California.
- Rhode Island becomes the 11th State to legalize medical marijuana on Jan 3, 2006. The bill was passed by the House 52-10 on June 24, 2005, and by the Senate 33-1 on June 28, 2005. On June 29, 2005, Gov. Carcieri vetoed the bill. The Senate overrode the veto on June 30, 2005 (28-6) and the House overrode the veto on Jan. 3, 2006 (59-13), at which point the law took effect.
- On April 20, 2006, the FDA released a statement titled "Inter-Agency Advisory Regarding Claims That Smoked Marijuana Is a Medicine." The FDA states that "there is currently sound evidence that smoked marijuana is harmful. A past evaluation by several Department of Health and Human Services (HHS) agencies... concluded that no sound scientific studies supported medical use of marijuana for treatment in the United States, and no animal or human data supported the safety or efficacy of marijuana for general medical use. FDA, as the federal agency responsible for reviewing the safety and efficacy of drugs, DEA as the federal agency charged with enforcing the CSA, and the Office of National Drug Control Policy, as the federal coordinator of drug control policy, do not support the use of smoked marijuana for medical purposes." ¹
- On June 21, 2006, the General Assembly of the Presbyterian Church approves a resolution to support medical marijuana. ²
"This resolution declares support for the medicinal use of cannabis sativa (also known as marijuana), and directs the Presbyterian Church (U.S.A.) to actively urge the Federal government to amend and adopt such laws as will allow the benefits of marijuana treatment for such diseases as cancer, AIDS, and muscular dystrophy."



¹ US Food and Drug Administration (FDA) "Inter-Agency Advisory Regarding Claims That Smoked Marijuana Is a Medicine" (100 KB), Apr. 20, 2006.

² Presbyterian Church "Minutes: 217th General Assembly," oga.pcusa.org, 2006.

History of Cannabis - 2005-2009 (Cont.)

- New Mexico becomes the 12th State to legalize medical marijuana. Senate Bill 523 "The Lynn and Erin Compassionate Use Act" was approved by the House 36-31 and the Senate 32-3.
- In a paper released on February 15, 2008, the American College of Physicians (ACP) stated its support for the use of non-smoked forms of THC, research on the benefits of medical marijuana, review of the federal scheduling of marijuana, and exemption from criminal prosecution.
- On August 25, 2008, California Attorney General issues State guidelines for medical marijuana.¹
- The non-binding 11-page document states, "In light of California's decision to remove the use and cultivation of physician recommended marijuana from the scope of the state's drug laws, this Office recommends that state and local law enforcement officers not arrest individuals or seize marijuana under federal law when the officer determines from the facts available that the cultivation, possession, or transportation is permitted under California's medical marijuana laws."



¹ "Guidelines for the Security and Non-diversion of Marijuana Grown for Medical Use" (55 KB) ag.ca.gov, Aug. 28, 2009.

History of Cannabis - 2005-2009 (Cont.)

- In September of 2008, two pounds of cannabis was found buried in a 2,700 year old Chinese tomb.
- On November 4, 2008, Michigan becomes the 13th State to legalize medical marijuana with 63% of the vote.
- In 2009, the DEA rejects a Judge's ruling to allow for a new source of cannabis for research.
- The DEA rejects Administrative Law Judge 2007 recommendation to allow Professor Lyle Craker to grow marijuana for research purposes at the University of Massachusetts. The DEA asserts the current supply of marijuana for research is "adequate and uninterrupted."¹
- February 25, 2009 the US Attorney Eric Holder says raids on medical marijuana clinics will not continue.
- In November, the American Medical Association softens position on scheduling of marijuana. The statement read in part: "Our AMA urges that marijuana's status as a federal Schedule I controlled substance be reviewed with the goal of facilitating the conduct of clinical research and development of cannabinoid-based medicines, and alternate delivery methods. This should not be viewed as an endorsement of state-based medical cannabis programs, the legalization of marijuana, or that scientific evidence on the therapeutic use of cannabis meets the current standards for a prescription drug product."²



¹ Bina Venkataraman, MPP "DEA Rejects UMass Request to Grow Medical Marijuana," Boston Globe, Jan. 12, 2009.

² American Medical Association (AMA) "AMA Policy: Medical Marijuana," Nov. 10, 2009.

History of Cannabis - 2010- Present

- On January 11, 2010, New Jersey becomes the 14th state to legalize medical marijuana.
- The US Department of Veterans Affairs releases a Veterans Health Administration (VHA) directive saying that veterans who participate in legal state medical marijuana programs will no longer be disqualified from "substance abuse programs, pain control programs, or other clinical programs."¹
- On July 27, 2010, medical marijuana becomes legal in DC. The law caps a year-long struggle to act on a 1998 referendum in which 69 percent of District residents voted for to allow medical marijuana. Until last year, Congress blocked the city from enacting the referendum.
- On November 2, 2010, Arizona becomes the 15th state to legalize medical marijuana. Proposition 203 was passed by a margin of 4,341 votes out of 1.6 million votes.
- The following year Delaware becomes the 16th state to legalize medical marijuana.



¹ "VHA Directive 2010-035", Department of Veterans Affairs website, July 22, 2010.

History of Cannabis - 2010- Present

- On July 8, 2011 the DEA denies a 2002 request to reclassify marijuana out of the restrictive Schedule I category.
- A June 21, 2011 letter from DEA Administrator Michele Leonhart said marijuana 'has a high potential for abuse,' 'has no currently accepted medical use in treatment in the United States' and 'lacks accepted safety for use under medical supervision.' The letter was officially published in the Federal Register on July 8, 2011.
- In November of 2011, a study finds legal medical marijuana reduces fatal car accidents.¹
- "States that legalize medical marijuana see fewer fatal car accidents, according to a [Nov. 2011] new study, in part because people may be substituting marijuana smoking for drinking alcohol. Comparing traffic deaths over time in states with and without medical marijuana law changes, the researchers found that fatal car wrecks dropped by 9% in states that legalized medical use — which was largely attributable to a decline in drunk driving.... The authors also found that in states that legalized medical use, there was no increase in marijuana smoking by teenagers — a finding seen in other studies as well. But, in many cases, the laws were linked with an increase in marijuana smoking among adults in their 20s; this rise was accompanied by a reduction in alcohol use by college age youth, suggesting that they were smoking weed instead..."²



^{1,2} Maia Szalavitz "Why Medical Marijuana Laws Reduce Traffic Deaths," TIME, Dec. 2, 2011.

History of Cannabis - 2010- Present

- On May 31, 2012, Connecticut becomes the 17th state to legalize medical marijuana. The bill was passed by the House of Representatives 96-51 and by the Senate 21-13.
- Six months later on November 6, 2012, Massachusetts becomes the 18th State to legalize medical marijuana by approving Ballot Questions 3 by a vote of 63% to 37%.
- On January 22, 2013, the US Appeals Court denies medical marijuana reclassification challenge.
- New Hampshire becomes the 19th state to legalize medical marijuana when House Bill 573 into law on July 23, 2013. The following month Illinois becomes the 20th state to legalize medical marijuana.



History of Cannabis - 2010- Present

- On August 8, 2013 Dr. Sanjay Gupta comes out in favor of medical marijuana.
- "I mistakenly believed the Drug Enforcement Agency listed marijuana as a schedule 1 substance because of sound scientific proof. Surely, they must have quality reasoning as to why marijuana is in the category of the most dangerous drugs that have 'no accepted medicinal use and a high potential for abuse.' They didn't have the science to support that claim, and I now know that when it comes to marijuana, neither of those things are true. It doesn't have a high potential for abuse, and there are very legitimate medical applications. We have been terribly and systematically misled for nearly 70 years in the United States, and I apologize for my own role in that." ¹
- On August 29, 2013, the Justice Department will not challenge State marijuana laws.²
- "Today [Aug. 29, 2013], the U.S. Department of Justice announced an update to its federal marijuana enforcement policy in light of recent state ballot initiatives that legalize, under state law, the possession of small amounts of marijuana and provide for the regulation of marijuana production, processing, and sale."



¹ Sanjay Gupta, MD "Why I Changed My Mind on Weed," CNN.com, Aug. 8, 2013.

² US Department of Justice (DOJ) "Justice Department Announces Update to Marijuana Enforcement Policy," www.justice.gov, Aug. 29, 2013.

History of Cannabis 2010 - Present (Cont.)

- On February 14, 2014, the Obama administration gave banks a road map for conducting cannabis banking transactions.
- “The guidance provided the banks with more than 20 'red flags' that may indicate a violation of federal law. Among them: if a business receives substantially more revenue than its local competitors, deposits more cash than is in line with the amount of marijuana-related revenue it is reporting for federal and state tax purposes, or experiences a surge in activity by third parties offering goods or services such as equipment suppliers or shipping services.”
- On April 14, 2014, Maryland becomes the 21st State to legalize medical marijuana when House Bill 881 was passed by Senate 44-2 and signed by Governor Martin O’ Malley. Conditions approved for use are cachexia, anorexia, or wasting syndrome, severe or chronic pain, severe nausea, seizures, and severe or persistent muscle spasms.
- Minnesota becomes the 22nd state to legalize medical marijuana when Governor Mark Dayton signs SF 2470 into law on May 29, 2014. The bill allows oil, pill, and vaporized forms of medical marijuana but prohibits smoked marijuana. Approved: By Senate 46-16, by House 89-40
- New York becomes the 23rd state to legalize medical marijuana when Governor Andrew Cuomo signs Assembly Bill 6357 into law on July 5, 2014. The bill passed with Senate approval 49-10, prohibits smoked marijuana and will tax the medical marijuana at a rate of 7%. The law automatically expires after seven years. Conditions approved for use include cancer, HIV/AIDS, ALS (Lou Gehrig's disease), Parkinson's disease, multiple sclerosis, spinal cord damage causing spasticity, epilepsy, inflammatory bowel disease, neuropathies, and Huntington's disease.



¹ Pete Yost "Feds Let Banks and Marijuana Sellers Do Business," bigstory.ap.org, Feb. 14, 2014.

History of Cannabis 2010 - Present (Cont.)

- On December 17, 2014, a new spending bill was passed by Congress that bans the Justice Department for using funds to enforce federal law on growing or selling marijuana in the 23 states that have moved to legalize it for medical use.
- Puerto Rico Governor Alejandro Garcia Padilla signed an executive order to authorize the use of medical marijuana on May 3, 2015.
- On June 22, 2015, the Federal Government removes obstacles to marijuana research. "A long-standing bureaucratic obstacle to privately-funded medical marijuana research has just been removed, effective immediately... [The Public Health Service review process] has been a subject of particular consternation among researchers and advocates. That step is not required for research into any other drug, including cocaine and heroin. The PHS review is nearly identical to the one performed by the FDA. Sometimes, it can take months to complete."¹
- On April 4, 2016, the DEA considers moving cannabis to less-restrictive drug schedule. "In a letter the agency sent to federal lawmakers this week, the DEA says it plans to release a decision on rescheduling marijuana in the first half of 2016."²
- On April 17, 2016, Gov. Tom Wolf signed The Medical Marijuana Act SB 3 into law with Senate approval 42-7, making Pennsylvania the 24th state to legalize medical marijuana.



¹ Washington Post "The Obama Administration Just Made Medical Marijuana Research Easier," by Christopher Ingraham, Washington Post, June 22, 2015.

² Denver Post "The DEA Could Soon Announce a Major Decision on Rescheduling Marijuana," by John Ingold, denverpost.com, Apr. 6, 2016.

Insurance Needs of Cannabis Businesses Generally

The Business seems exotic, but . . .

Insurance risks and needs not particularly unusual:

- Auto
- WC
- CGL
- Crop
- Fidelity Bond
- Armored Car

The Legal Environment Regarding Cannabis: Federal and State Drug Laws and Their Impact on the Insurance Marketplace

Patch work of divergent state laws and regulations coupled with an overlay of federal legislation coupled with federal law enforcement priorities

Federal Law

- Controlled Substances Act
 - Secondary Liability- aiding and abetting and conspiracy
- Money Laundering

Unusual Risk Facing Cannabis Businesses (and those doing business with them)

Legal uncertainty and novelty

When Will Laws Change and How?

Legalization in More and More States?

Schedule I to Schedule II?

Federal Enforcement After Inauguration Day?

Greater Access to Banking Services?

After Inauguration Day . . . President Clinton

www.hillaryclinton.com/issues/criminal-justice-reform/

- **Allowing states that have enacted marijuana laws to act as laboratories of democracy**, as long as they adhere to certain federal priorities such as not selling to minors, preventing intoxicated driving, and keeping organized crime out of the industry.
- **Rescheduling marijuana from a Schedule I to a Schedule II substance.** Hillary supports medical marijuana and would reschedule marijuana to advance research into its health benefits.

After Inauguration Day . . . President Trump

<http://www.c-span.org/video/?c4541840/donald-trump-marijuana>

- **“I’d say [the Colorado experiment] is bad. Medical marijuana is another thing. ... I think medical marijuana – 100%” (June 2015)**

<https://www.washingtonpost.com/news/post-politics/wp/2015/10/29/trump-wants-marijuana-legalization-decided-at-the-state-level/>

- **“In terms of marijuana and legalization, I think that should be a state issue, state-by-state” (October 2015).**

Insurance Experience To Date

- Toes in the water → Somewhat limited supply
- Increased pricing:
 - New business
 - Somewhat limited supply
 - Legal uncertainty
- Yet . . . Favorable loss ratios

Thank You.



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ADDITIONAL REFERENCES

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UN Single Convention on Narcotic Drugs, 1961:

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Controlled Substance Act (CSA), 1970:

<http://medicalmarijuana.procon.org/sourcefiles/Controlled-Substances-Act-1970.pdf>

US Patent number US6,630,507 B1:

<http://medicalmarijuana.procon.org/sourcefiles/govtmjpatent.pdf>

AMA Policy on Medical Marijuana:

<http://medicalmarijuana.procon.org/sourcefiles/AMA09policy.pdf>

US Department of Veterans Affairs, Medical Marijuana

<http://medicalmarijuana.procon.org/sourcefiles/VHADirectiveJuly22.pdf>

BSA guidelines for cannabis related bank accounts:

<http://medicalmarijuana.procon.org/sourcefiles/BSA-Expectations-Regarding-Marijuana-Related-Businesses.pdf>

DEA Letter:

<http://medicalmarijuana.procon.org/sourcefiles/BSA-Expectations-Regarding-Marijuana-Related-Businesses.pdf>

Cole Memo:

<https://www.justice.gov/iso/opa/resources/3052013829132756857467.pdf>