

Angie Lake

From: Greg Switala <switalagreg@gmail.com>
Sent: Friday, March 09, 2012 10:07 PM
To: Angie Lake
Subject: Judiciary discussion re: Medical Marijuana

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Michigan House of Representatives Judiciary Committee Anderson House Office Building 124 North Capitol Avenue
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Honorable Representative;

Thank you for your work in addressing the Michigan Medical Marijuana Act. As a patient and primary caregiver there are some considerations that I beg your favor to consider. Please consider them my public comments and include them in the record. There are two issues in particular that I feel compelled to offer. One is the matter of 'key judges' and law enforcement personnels' mistaken notions that transfers of marijuana freely among and between qualified patients is not provided for in the act. The other regards the practice of property forfeiture as exercised by law enforcement and the courts.

Just as the Committee has agreed that it is clear that the affirmative defense lies well within the parameters of the law, and the excellent direction you plan to inform regarding, and that the judiciary must have instruction to permit that defense to the trier of fact, a provision which has heretofore been ignored, it must be likewise recognized that the Michigan Court of Appeals has ruled that there is no provision that patients can be permitted to freely transfer to and from each other, in contravention of the law. This is spoken to categorically in:

Section 4(a) [in pertinent part]:

“A qualifying patient who has been issued and possesses a registry identification card shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to civil

penalty or disciplinary action by a business or occupational or professional licensing board or bureau, for the *medical use* of marihuana in accordance with this act..." (italics mine).

...which is directly referred to:

Section 3. (c) [In "definitions]:

"*Medical use*" means the acquisition, possession, cultivation, manufacture, use, internal possession, *delivery, transfer, or transportation* of marihuana or paraphernalia relating to the administration of marihuana to treat or alleviate a registered qualifying patient's debilitating medical condition or symptoms associated with the debilitating medical condition." (italics mine).

It is urgent and important that this be clarified by the legislature to the courts and law enforcement. Despite that this is the law as written and codified by the electorate, both in letter and intent, it is a disgrace that members of the bench ignore its provisions out-of-hand. The term "transfer" lies squarely within the definition. It has been withheld by factions within the courts as a permitted activity. Cases are on the way to the Supreme Court, e.g., State v McQueen. It should be noted that the State of Rhode Island, whose statutory language is remarkably similar to Michigan's, promulgated clear legislation, well after that law had been established, that refined this issue in that state, in answer to that constituency, to require the defense be permitted.

Won't you please consider statutorily clear instruction to the courts to observe this clause, and compel law enforcement agencies regarding the same? The Attorney General's position on this and several other provisions is irresponsible and offers no intellectually honest respect for the law. It would be wise, and even necessary, to sanction him.

Property forfeiture is the mother's milk of law enforcement, and should be considered as a compelling motivator among judges and law enforcement agencies and officers. An individual convicted of drug trafficking, even of small amounts of marijuana, faces the loss of any and all of their wealth, often without being charged. The statutory protection of qualified patients and caregivers is flatly ignored and they suffer far more than law permits. The practice has unarguably influenced the government players to use it to purchase modern military equipment, to possess and use confiscated property, to enrich people in potions of power and influence, all by way of maximizing the number of convictions. If the Committee thinks this is not a matter for discussion along with current considerations to address the law, then please bear in mind through any present and future consideration that it is necessary to follow the money.

I am not alone in believing that the Act is entirely clear and concise. Some of the Committee members have said as much, and wondered aloud how it is that liberties are taken with the law by the judiciary and law enforcement at the expense of clearly defined protections intended to permit a community and a small cottage industry to be free from the intrusions spoken here and in hearing. Please favor those of us who realize

excellent relief from our diseases and injuries and ensure that we are protected as the law intends. I understand that it is preferred that we speak to that particular package of bills at hand, but I sincerely believe these issues rise to the level of importance of those bills, and in several cases exceed them.

Thank you.