

# On Issuing Cannabis Recommendations

By Stacey Kerr, MD

A veteran physician who recently entered the field of cannabis therapeutics shares intelligence gleaned in the process.

Not long ago I was doing a home visit with a very sick young woman. She was fighting an aggressive cancer and having horrible side effects to her chemotherapy. I had already spotted the vaporizer on her nightstand, so I asked her if she was using it with any success. She said that the cannabis was wonderful, it worked quickly, and she just wished it lasted longer.

"Are you using clean, organic medicine?" I asked. They showed me what they had and told me that a local physician had suggested that this medication might be quite helpful.

"Did he write you a legal recommendation?"

"Well, no. He said he would, but first he had to look stuff up and figure out how. That was about a month ago."

Ironically, even though he knew it was good medicine, he did not know how to provide legal coverage for this suffering patient.

That's where I was at several years ago. I knew that many of my patients were using cannabis. I wanted to open the discussion as part of their complete health care, but I was afraid. If I even mentioned it...would they think that I myself was a chronic pothead? Would they quit trusting my medical care or judgment? Would I regret it?

Then one day I had an unusual request. A patient who also happened to be a police officer, stopped to talk before leaving the office and said, "Doc - would you please start writing more recommendations for medical marijuana? I find pot in people's possession and I ask them for their recommendation, and if they don't have one I have to take them in. I don't want to waste our time anymore. Please do your part to help."

That was the day I decided to add medical cannabis recommendations to my full scope family practice.

### First —is this good medicine?

Writing recommendations can be as simple as putting up a shingle and charging money for your signature. But that's not the kind of doctor I am, and that's not what I support. Cannabis is powerful medicine and deserves the respect of a full consultation, accurate record keeping, and some knowledge of the changing laws.

It helps to know that the safety profile of cannabis is well established. Is cannabis an addictive substance? No. Is cannabis a "gateway" to dangerous drugs? No. Are the medical benefits of cannabis substantiated by published studies? Yes!

It helps to know the proven uses for Dr. Stacey Kerr, a Sonoma County family physician, graduated from UC Davis Medical School and has been certified in her specialty by the American Board of Family Medicine. She currently writes for the Santa Rosa Press Democrat and is the author of *Homebirth in the Hospital*, published by Sentient Publications last year. Although retired from clinical medicine, she continues to care for patients who just won't go away

Jeffrey Hergenrath, MD, was Kerr's mentor in cannabis therapeutics; this article incorporates many of the points he emphasized.

medical cannabis. Education in cannabinoid science is essential. The endocannabinoid system is a major regulatory system of both the immune system and nervous system in humans. It had not been discovered when most of us went through medical school.

Other physicians explain their resistance to issuing cannabis recommendations by saying, "I would much rather give a prescription for a medicine I understand, can prescribe and can control instead of supporting the use of a 'street drug.'"

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Cannabis is a self-titrated medication, and patients find they have vastly different needs. The effective dose must be left to each individual patient to find, and this makes some physicians uncomfortable while at the same time, giving patients full control of their medication.

Another common resistance factor is the availability of pharmaceutical

of anti-emetic therapy. There is evidence that cannabis outperforms even this class of medications when it comes to both the anticipatory nausea, vomiting and anxiety prior to administration of chemotherapy, and the anti-emetic effects during and after chemotherapy.

Cannabis and cannabinoids represent an alternative to analgesics of all kinds, anti-anxiety, anti-depressants, anti-panic, anti-obsessive-compulsive; gastrointestinal agents including anti-spasmodics and anti-inflammatory medications; migraine preparations; anti-convulsants; appetite stimulants; immuno-modulators; muscle relaxants; multiple sclerosis management medications; glaucoma treatments; sedative and hypnotic agents; Tourette's syndrome agents, and anti-cancer agents.

There is a wonderful compendium of published clinical research at:

<http://www.cannabis-med.org/studies/study.php>

### Legalities

Once I was comfortable with the therapeutic integrity of medical cannabis, I needed to understand my legal rights and liabilities.

Because the Controlled Substances Act of 1970 made it illegal to prescribe cannabis, the wording of Proposition 215 and all other subsequent state laws have used the language to "approve or recommend" cannabis as opposed to "prescribe" cannabis.

There are significant differences, not the least of which is that cannabis cannot be obtained at a pharmacy. It is, however, unambiguously legal and protected by federal law for the physician to recommend cannabis when appropriate.

When you discuss medical cannabis with your patients you should recognize that you are entering into a medical-legal consultation; you need a basic understanding of relevant state and federal law. I recommend California NORML's:

<http://www.canorml.org/canjlaws.html>

Additionally, it is imperative that you clarify your medical relationship with your patient —are you providing full- scope primary care or a limited medication consultation? Clear boundaries are essential.

The law created by California voters by passing Proposition 215 in 1996 —Section 11362.5 of the Health & Safety code— allows medicinal use of cannabis, allows possession of cannabis by patient and caregiver, addresses quantities of need without specifying those quantities, and notes the qualifying conditions in California as: treatment of cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis, migraine, or any other illness for which marijuana provides relief.

Although physicians have a First-Amendment-based right to discuss the pros and cons of medical marijuana



STACEY KERR, MD, is elated after resuscitating a newborn baby at Sutter Medical Center of Santa Rosa in 2004.

products that diminish or eliminate the need to recommend cannabis.

Without understanding the role of the endocannabinoid system and the unique ability of cannabis to activate the endo-cannabinoid receptors this would be a plausible argument. But the fully educated physician knows that cannabis has unique and effective therapeutic properties that are pharmacologically and physiologically independent of other therapies. In many situations cannabis is the drug of choice owing to its efficacy and lack of toxicity.

### For Which Conditions?

Chronic pain, accounting for about half of physician approvals, is often best managed with cannabis as the primary medication. Cannabis has a potentiating effect with opiates in pain control, and it is uniquely beneficial with neuropathic pain. Cannabis often displaces opiates and NSAIDs in chronic pain control.

Regarding the control of nausea and vomiting, the serotonin receptor antagonists have become the mainstay



MEDICAL BOARD NEWSLETTER FOR JULY 2004 ran a front-page statement on "California Physicians and Medical Marijuana." Some pro-cannabis MDs welcomed the practice standards it enumerated, but Tod Mikuriya's lawyer, William Simpich, accused the board of "illegally making policy by issuing statements that amount to 'underground regulations.'" The MBC standards remain in place and must be adhered to by physicians who discuss cannabis with patients.

use with patients, if physicians advise patients concerning how to obtain the drug, they risk triggering liability under federal law for aiding and abetting the unlawful possession of a controlled substance.

Bottom line: You may discuss the use and the pros and cons of medical cannabis, but should avoid any discussion about how to obtain said medication.

### Meeting MBC Standards

The Medical Board of California clarified its position in its July 2004 *Action Report*. The key section states:

"The MBC wants to assure physicians who choose to recommend medical marijuana to their patients, as part of their regular practice of medicine, that they WILL NOT be subject to investigation or disciplinary action by the MBC if they arrive at the decision to make this recommendation in accordance with accepted standards of medical responsibility... These accepted standards are the same as any reasonable and prudent physician would follow when recommending or approving any other medication, or prescription drug treatment."

"Accepted standards of medical responsibility include the following:

### "1. History and good faith examination of the patient."

How does this vague guideline translate in practice?

The initial examination should be a confidential, face-to-face session with the patient. The new patient should release medical records to show evidence of the condition for which he/she is requesting the use of cannabis. Review the work-up and treatment plan for the qualifying condition and make appropriate recommendations and referrals as in any other situation. Document the history of the presenting illness. The patient is not required to have exhausted

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all diagnostic possibilities or efforts at conventional therapy.

The complete medical examination is important, even if you are simply providing a medication consult. As primary care has become less accessible, a head-to-toe examination is greatly appreciated by the patient and not uncommonly reveals important unaddressed findings.

*Most patients are already using cannabis at the time they present for a cannabis approval.*

**“2. Development of a treatment plan with objectives.”**

Cannabis, an herb with more than 400 constituents of unknown concentrations, is a self-regulated medication. The physician can make recommendations about methods of administration, but it is inappropriate to prescribe a specific regimen.

Most patients are already using cannabis at the time they present for a cannabis approval. It is important to explore the patient's knowledge of alternative methods of administration, especially vaporization and orally ingested forms. Imparting the basic information about the differences in cannabis metabolism by inhaled route (about one hour), as compared to ingested forms (about five hours), will help the patient to better manage their timing and titration of dose.

It is not appropriate for the physician to record information about the patient's cannabis growing activities, number of cannabis plants, or, information about a patient's primary caregiver. Avoid documentation of number of plants required for the patient's medical needs. You may conclude from the use pattern a dosage in grams/day and extrapolate to pounds/year.

You may choose to define a quantity (weight) of cannabis you expect the patient to require for a year so that the quantity, especially if it should exceed local guidelines of plant count and canopy area, can be recognized by law enforcement as allowable under the law. This determination carries the weight of the law and should be done with care.



**Your Letterhead Here**

**Your address here** **Your phone number here**

**California Compassionate Use Act of 1996**  
**Health and Safety Code 11362.5**

**Physician's Statement**

Today's date \_\_\_\_\_

Initial consultation \_\_\_\_\_

This certifies that \_\_\_\_\_ DOB: \_\_\_\_\_

is a patient under my consultative care and supervision for treatment of a serious medical condition.

I have discussed the medical risks and benefits of cannabis use with the patient as a treatment for this condition, and based upon those discussions and the currently available information regarding the safety and efficacy of cannabis, I approve the use of cannabis by this patient.

The physician's initials below indicate that I approve a quantity enabling cannabis use consistent with the patient's needs that exceeds the guidelines set forth in California law SB420 and/or guidelines within this patient's county of residence, as provided by California H&SC #11362.77b.

\_\_\_\_\_ **physician's initials**

**Renewal date** \_\_\_\_\_

**Physician's signature** \_\_\_\_\_

**California License No. 0000**

**GENERIC RECOMMENDATION FORM is used by Dr. Kerr in carbonless triplicate —one copy for the doctor's chart, one for the patient, and one for law enforcement if requested. SB-420 limited the amount of cannabis that can be grown or possessed, but created exceptions: "If a qualified patient or primary caregiver has a doctor's recommendation that this quantity does not meet the qualified patient's medical needs, the qualified patient or primary caregiver may possess an amount of marijuana consistent with the patient's needs... Counties and cities may retain or enact medical marijuana guidelines allowing qualified patients or primary caregivers to exceed the state limits."**

**“3. Provision of informed consent including discussion of side effects.”**

Patients should read and sign a document of informed consent and release of liability at the time of the initial evaluation. Information on this informed consent should include the following points:

- The cannabis plant is not regulated by the U.S. FDA. It contains unknown quantities of active constituents, and possibly toxic impurities and contaminants.
- The patient must assume full responsibility for any and all risks associated with requesting an approval or recommendation for the use of this plant as medication.
- Cannabis use may affect coordination and cognition in ways that could impair ability to drive, operate machinery, or engage in potentially hazardous activities.
- The patient must assume full responsibility for any harm resulting to himself

and/or other individuals as a result of his use of cannabis.

- The physician and staff will not aid and abet the patient in acquiring cannabis.
- The physician, staff and representatives of this medical practice are neither providing cannabis, nor encouraging any illegal activity.

**“4. Periodic review of the treatment's efficacy.”**

Correlating patients' reports of beneficial effects with the underlying cannabinoid science is very exciting and gratifying. It is important to document the patients described pattern of use at the initial and subsequent visits, including the range of quantities, and method(s) of administration. From this data the physician may be called upon to report plausible quantities of use.

Both at the initial and follow-up vis-

its, quote the patient's response to cannabinoid therapy when applicable, both primary and collateral benefits. Note any adverse effects. If these include airway irritation, note your recommendation to use non-smoked alternative methods of administration such as vaporization.

**“5. Consultation, as necessary.”**

Nothing in the Compassionate Use Act of 1996 requires a patient to renew his recommendation, and nothing in the CUA says that recommendations expire. Not seeing the doctor as directed does not invalidate the recommendation. However, it is good medicine to provide periodic consultations.

**“6. Proper record keeping that supports the decision to recommend the use of medical marijuana.”**

The initial and subsequent evaluations of the patient should be documented in the patient's medical records. The patient's name, sex, birth date, social security number or driver's license number, address, phone number, date of examination, relevant history and physical examination should be included.

Note an ICD-9-CM diagnosis in the medical records as it relates to the chief complaints.

Document a mental health history and/or have adequate documentation from a mental health professional when the patient's primary complaint is a mental disorder.

Discuss and document other therapeutic options and referrals as appropriate to the proper care and supervision of the patient.

**Bottom-line Summary**

- Begin to educate yourself about cannabinoids —endo, phyto, and synthetic. There's plenty of information at [www.cannabis-med.org](http://www.cannabis-med.org)
- Create an informed consent document and a recommendation form to use in your practice.
- Talk to your patients, provide good medical care, and document your discussions and findings.

It's as simple as that! There are few recommendations that are as rewarding as those that provide welcome relief to the suffering. Medical cannabis, appropriately used, can do just that.

