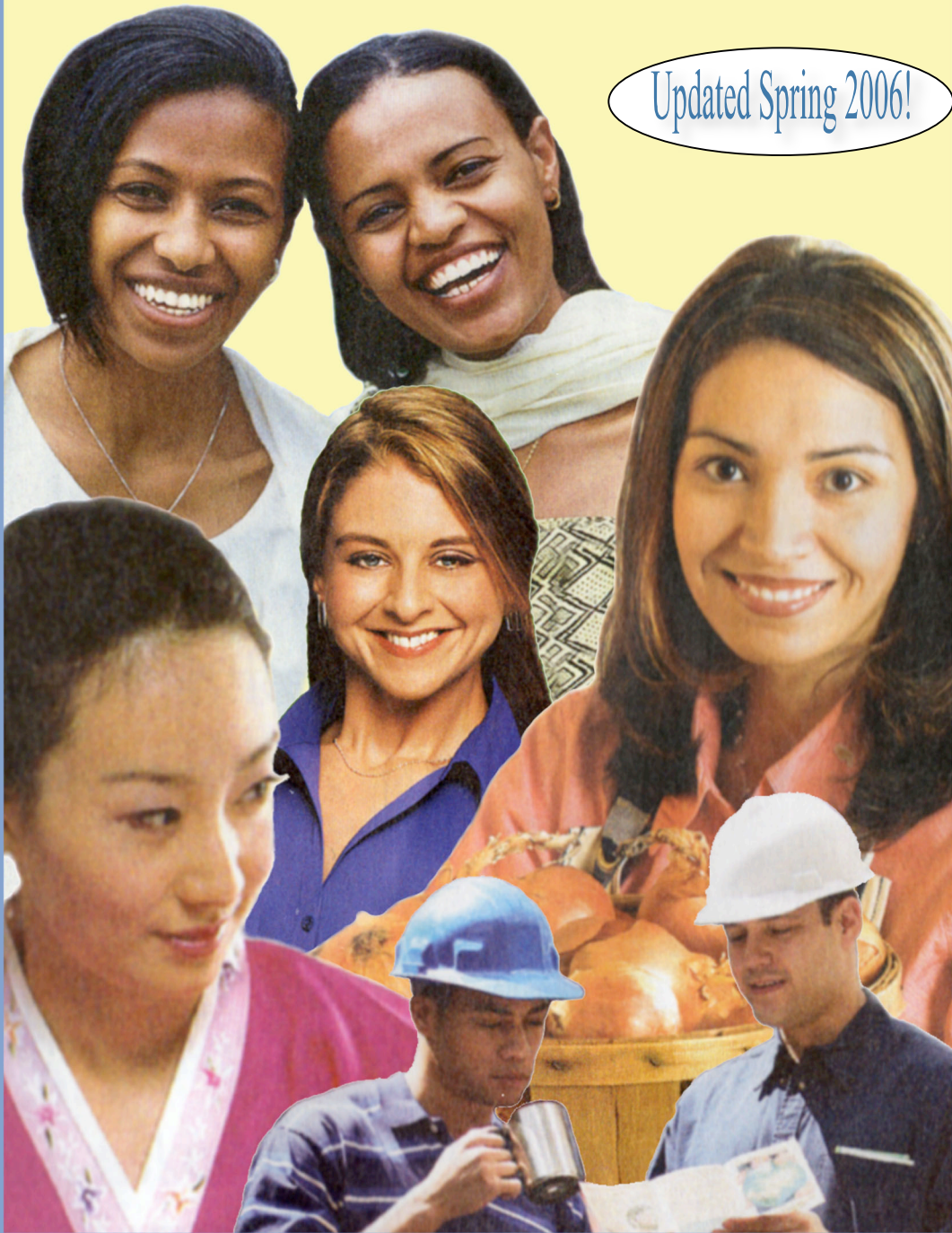


Medical Cannabis & Our Community

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By **Don Duncan**

Introduction and Background

You are probably reading this booklet because a medical cannabis (marijuana)¹ dispensing collective is operating in your neighborhood or someone has proposed opening one nearby. This booklet is designed for community members who have questions about medical cannabis in their neighborhood and about who medical cannabis patients are. The field of medical cannabis is new in California and it is natural for neighbors to have questions and concerns. This booklet also discusses some of the legal issues surrounding this topic. Most importantly, *Medical Cannabis & Our Community* is intended to help in understanding the impact medical cannabis and dispensing collectives may have on a community. Accordingly, as a well-informed community member, you will be better able to participate in the discussion about medical cannabis in your neighborhood.

Before we talk more about medical cannabis dispensing collectives, let's review some facts about the use of cannabis as medicine.

History of Medical Cannabis

The medical use of cannabis goes back to ancient times. The earliest reference dates back as many as 5000 years. The hemp plant (from which cannabis comes) has been cultivated in India and the Far East for thousands of years. Here in the United States, cannabis was a common ingredient in medications until 1937, when the plant was outlawed by the Marijuana Tax Act, despite the objections of the American Medical Association.²

Despite its status as an illegal drug, cannabis continued to be used as an herbal folk medicine into the 20th Century. In the 1960's and 1970's, changing social mores regarding cannabis use and growing anecdotal evidence led to a series of legal efforts to reform state and federal laws to allow for medical use.³ By 1991, many oncologists already reported recommending it to treat nausea associated with chemotherapy⁴. The medical use of cannabis gained renewed national attention when AIDS patients began to report its efficacy as a treatment for the deadly wasting syndrome. In the 1990's, medical cannabis patients began to organize and demand legal access to this medication.

In 1996, voters in both California and Arizona adopted laws permitting the medical use of cannabis. Nine other states and the District of Columbia have since adopted similar laws. California's law, known as Proposition 215, allows a patient with a doctor's recommendation to use cannabis without fear of prosecution or arrest. Proposition 215 also called on the state Assembly to adopt appropriate legislation to ensure safe access to medical cannabis. Unfortunately, legislators have been unable – and in some cases unwilling – to develop an effective statewide distribution program. In the absence of implementation on a state level, cities and counties have adopted their own patchwork of guidelines, policies and regulations.

Who Are Medical cannabis Patients?

Some people have misconceptions about who uses medical cannabis. Chronic illnesses affect all kinds of people, regardless of age, income, ethnicity, sexual orientation, religious background, or values. Under California law, a legal patient must have the recommendation or approval of a doctor for the medical use of cannabis. Doctors are authorized to write recommendations for any condition for which cannabis provides relief, including treatment of the symptoms of AIDS, cancer, glaucoma, multiple sclerosis, and chronic pain. Most doctors use expiration dates to ensure the patient maintains ongoing medical treatment. Many people have discovered that medical cannabis relieves their symptoms and enables them lead to better, more productive lives.

A medical cannabis patient might be a secretary, a manager, an accountant, a politician, a lawyer, a student, a banker, a teacher, or a retired person. What they all have in common is a need to relieve their pain and suffering. Medical cannabis patients are our family members, our mothers, fathers, sisters and brothers, our friends, our co-workers, and our neighbors.

Stories of Real Medical Cannabis Patients

“Susan” is a medical cannabis patient suffering from glaucoma. She receives no benefit from pharmaceutical drugs. Medical cannabis increases blood flow to her eyes resulting in reduced intraocular pressure and remarkably improved vision. Susan reports that she can see well enough to carry on teaching her special education classes because of her medication.

“Rick” weighed over 200 pounds when he learned he was HIV positive ten years ago. He developed wasting syndrome soon after his diagnosis. Wasting syndrome is a deadly combination of appetite loss and nausea that afflicts many AIDS patients. He lost 60 pounds before trying medical cannabis. Using the medication helped him regain most of his weight and he now keeps a healthy diet.

“Stan” is the victim of a gun shot wound that left him paralyzed. Medical cannabis helps him control the painful and uncontrollable muscle spasms that accompany his injury. Modern medicine has no treatment for Stan. He says he could not lead a normal life without the amazing anti-spasmodic and pain relieving properties of medical cannabis.

Some people express surprise when a medical cannabis patient does not look sick. But there are many people who look "fine" who may, in fact, have serious illnesses. The effects of cancer, AIDS, and chronic pain cannot always be seen with the naked eye. In fact, some medical cannabis patients appear healthy. This is a *result* of their use of medical cannabis!

What is a Medical Cannabis Dispensing collective?

The vast majority of medical cannabis patients cannot grow their medicine for themselves. Some are too feeble to do so; others lack the time, space, or skill to grow cannabis, a process that can be complicated. Some live in places where growing cannabis would be inappropriate.

Proposition 215 did not specify how patients who do not grow their own medicine should obtain it. Thus, most of California's estimated 100,000 patients obtain their medication from a dispensing collective. A medical cannabis dispensing collective is an organization that provides legal medicine to legal patients. You may have heard dispensing collectives referred to as cannabis buyers' clubs, compassion centers, or cannabis co-ops. There are more than 200 dispensing collectives operating in California as of early 2006.

Dispensing collectives require that patients register as members before receiving medication. This allows the dispensing collective staff to verify the patient's letter of recommendation and track the recommendation's expiration date. Dispensing collectives are healthcare facilities that provide patients with safe and reliable access to the medicine they need.

There are different models for dispensing collectives:

- A grower's cooperative is an organization in which a group of patients join together to grow medicine for everyone in the cooperative. Individual members may contribute labor, supplies, or money to the effort. Patients share the medicine that is produced.
- A "pharmacy-style" dispensing collective is like a pharmacy that provides only one product, cannabis. Of course, these collectives are not really pharmacies and do not provide prescription drugs.
- A full service dispensing collective provides other life-enhancing services to members in addition to medical cannabis. Services might include massage, acupuncture, counseling, support groups, or educational services.

Sometimes, dispensing collectives will blend elements of more than one model. A grower's cooperative might also provide other services and a pharmacy-style collective might maintain a small collective garden. These organizations are quite new, so there are few precedents and models to follow. It is not unusual for operators to experiment with an organizational model and evolve from one form to another as patients' needs change.

Dispensing collectives may grow the medicine they need, but this can be difficult and pose unnecessary legal risks for members. The best model for supplying medicine is one in which the collective receives the excess medication grown by registered members and provides it to other members who cannot grow their own. This arrangement creates a closed circuit of medication inside the collective that is isolated from the illicit market in cannabis.

A handful of unscrupulous people have indeed taken advantage of California's medical cannabis laws to pass off non-medical, for-profit businesses as dispensing collectives. These businesses sell cannabis to unqualified people in quantities that are inappropriate for personal medical use. They undermine the integrity of our State law and put patients at risk. Under no circumstances should these illegal businesses be confused with the vast majority of legitimate dispensing collectives in California.

**Good
Neighbors**

One of the hallmarks of a well-run medical cannabis dispensing collective is its positive role in the community. Good dispensing collectives have a “good neighbor policy” to ensure that they contribute to the overall wellbeing of the neighborhood. A good neighbor policy includes the following elements:

- Restricting membership to legally-qualified patients
- Providing adequate security to protect patients and the neighborhood
- Maintaining a clean facility in good repair
- Preventing nuisance activity like loitering or litter
- Educating members about rules and appropriate behavior in and around the facility
- Excluding patients who break the rules or divert medication for non-medical use
- Keeping lines of communication open with neighbors, elected officials, and law enforcement
- Responding to community concerns

A good neighbor policy will help ensure that patients get the medicine they need and that neighborhoods are protected. Communities have an important role to play in the good neighbor policy, as dispensing collectives need community input to develop policies that reflect the concerns and values of the neighborhood. They need feedback to know how to contribute to a successful and friendly neighborhood atmosphere. Perhaps the most important element of being a good neighbor is participating in an ongoing dialog between dispensing collective operators and all members of the community.

Well-run dispensing collectives are good for communities. They bring customers to business districts and provide revenue to city government. They also provide the most practical and effective mechanism for getting high quality medication to those who need it to treat serious conditions. The majority of Californians believe that sick people should have safe access to medical cannabis with a doctor’s recommendation. Dispensing collectives take this compassionate belief and make it a reality for sick and dying people every day. By having a dispensing collective in your area, you can feel good about the fact that the lives of the sick and dying are being improved, and in some cases saved – and about the fact that you have a role to play in helping make it work in your neighborhood.



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Are Dispensing Collectives Legal?

The legal status of dispensing collectives is evolving in step with California's medical cannabis laws. Unfortunately, Proposition 215 made no mention of dispensing collectives, despite the fact that the first dispensing collective opened in San Francisco in 1995. At that time, the operation of a dispensing collective was considered an act of civil disobedience, intended to help truly desperate patients and effect a change in law. Since 1996, dozens of cities and counties have adopted guidelines for dispensing collectives. On the whole, however, there is very little local guidance throughout California and no continuity from one jurisdiction to the next.

In 2003, the California State Assembly passed SB-420, a bill designed to clarify and help implement medical cannabis laws. The primary components of this legislation deal with (1) *de facto* limits on cultivation and possession where local guidelines are not in place, and (2) a partially implemented state ID program for legal patients. Two other provisions in the law impact dispensing collectives directly:

One Section allows a *primary caregiver* to receive compensation for providing a qualified patient with medical cannabis.⁵ Proposition 215 defines a primary caregiver as a person who has "consistently assumed responsibility for the housing, safety, or welfare of the patient." In 1997, the California Supreme Court ruled that a dispensary operator could not claim to be the primary caregiver for all of the patients in their collective (*Lungren v. Peron*). However, the law and this Supreme Court ruling make it clear that compensating the individual caregiver is 100% legal under state law.

Another Section of SB-420 exempts *cooperatives* and *collectives* of patients from penalties under state law if they are organized to produce medicine for members.⁶ In order to qualify, a collective or cooperative must be comprised entirely of qualified patients and primary caregivers. A *cooperative* is a specific business entity defined under state law. Dispensing collectives organized under this model must be incorporated as a cooperative under state law. A *collective* is a general term not defined under state law. A dispensing collective may operate collectively if it only obtains excess medication from its registered members and only provides it to other registered members. In this model, the possession of medication is a closed circuit for the exclusive benefit of the members. There is no entanglement with the illicit cannabis market.

A dispensing collective that serves only to facilitate the collaborative efforts of patient and caregiver members – including the allocation of costs and revenues – fulfills the letter and the spirit of the law. Explicit legal protection of dispensing collectives, however, does not yet exist under state law.⁷ In fact, little connection has been made in the Assembly or the Courts between safe, reliable access and legally condoned dispensation of medical cannabis. It may take some time to fully clarify the legal status of California's dispensing collectives.

In considering the evolving legal status of dispensing collectives, it may be useful to reflect on how state law enforcement agencies treat dispensing collectives. Law enforcement has been slow to embrace medical cannabis in California, which is not surprising considering that the issue may cloud the enforcement of non-medical cannabis laws. In a handful of cases, state or local police have seen fit to intervene in the activities of medical cannabis dispensing collectives to prevent non-medical diversion. On the whole, however, local law enforcement has taken a hands-off approach to these organizations. Despite a lack of clarity

in California law, state and local police are largely reluctant to interfere with the operation of credible dispensing collectives.⁸

There is a nationwide effort underway to harmonize federal law with the laws of those states that have approved medical cannabis. There have been several legislative efforts in Congress to protect patients under federal law. Additionally, there are a handful of civil and criminal cases in Federal, District and Appeals Courts. The US Supreme Court upheld federal jurisdiction to prosecute medical cannabis cases in 2005, but questioned the wisdom of doing so and urged Congress to act.⁹ An overwhelming majority of Americans support the medical use of cannabis. Legislative efforts, legal challenges, and grassroots advocacy are all putting pressure on Congress to recognize medical cannabis. While it is a slow process, we are certain to succeed in the long term. Many of the complex issues surrounding dispensing collectives will be resolved only after the federal policy changes. In the meantime, good local guidelines are the most essential part of protecting safe access and communities.

Voters across the state clearly indicated their support for medical cannabis in 1996. Since then, public support has grown stronger.¹⁰ Patients, doctors, and dispensing collective operators are engaged in an ongoing process of defining what California's medical cannabis program will look like. Right now, dispensing collectives are the safest and most effective way to get medication to patients who need it in our communities. Dispensing collectives work hard to be legal among a patch-work of evolving laws, and communities must stay involved in this process to be sure it works well for both patients and neighborhoods.

Are Dispensing Collectives Safe?

Safety for patients and the community is a top priority at medical cannabis dispensing collectives. Well-run dispensing collectives adopt a *security culture* to ensure safety. Security culture refers to a set of practices and strategies that work together to maintain community standards. Security culture may involve the following elements:

- Employing professional, trained security personnel
- Staying alert to detect problems before they occur
- Educating patients to be sure they know the rules
- Implementing policies to prevent diversion
- Restricting access to the facility to authorized persons
- Using appropriate security technology and equipment to monitor and secure the facility
- Maintaining communication with local law enforcement
- Training staff to prevent and respond to emergencies
- Educating staff and members as to their rights and responsibilities under the law

Individually, these elements help make a dispensing collective safer. Taken together, they provide a comprehensive safety strategy that makes a well-run dispensing collective one of the best and most secure neighbors in any given community. There is no greater correlation between dispensing collectives and crime than movie theaters and crime. Rather, dispensing collectives carry out important work in a discrete and professional manner. In truth, sufficient security and careful membership screening at good dispensing collectives serves to protect neighborhoods from undesirable elements in general.

There have been a handful of robberies at dispensing collectives in California. In most cases, these incidents occurred at dispensing collectives with poor security and questionable integrity. In other cases, errant employees robbed the dispensing collectives. A well-run dispensing collective with adequate security is less likely to be targeted by robbers than a more traditional, relatively less secure business.

Some people are under the mistaken impression that a dispensing collective is brimming with piles of cash and medicine, and is therefore a target for robbers. This is simply not the case. Dispensing collectives follow the same precautions in handling cash and inventory as any other business. A supermarket, convenience store or movie theatre collects more cash in a day than a dispensing collective. A jewelry or electronics store has inventory that is more valuable than the medicine at a collective. All of these businesses take precautions to protect themselves from robbery. None of these businesses are considered unsafe in any neighborhood—large or small.

Dispensing collectives safely provide medicine to sick and dying people every day in California. There is no inherent danger in having a dispensing collective in your neighborhood. Good dispensing collectives will always request the active participation and input of both neighbors and local law enforcement. With everyone's help, legally and ethically run dispensing collectives can fulfill the mission that voters intended when they approved Proposition 215: To get medicine to those who need it.

Beyond Safe Access

Medical cannabis is an exciting and quickly growing field that California voters approved out of a sense of compassion. Patients, advocates, and local officials have worked hard to implement the law so that it works for both patients and communities. This process is ongoing, and *your* community has a role to play. Our dispensing collective model, while not perfect, is the safest and most effective way to get medicine to patients. We can all help out by staying informed and involved in local implementation efforts. That way, we can be sure those who are suffering from cancer, AIDS, multiple sclerosis, chronic pain, and other serious illnesses get the medicine their doctors *and* the voters approved.

The full-service dispensing collective model may soon act as a template for community-based health care programs that transcend medical cannabis. Several full-service dispensing collectives in the state are already providing an impressive array of healthcare services in addition to medication. There are programs for pain management, massage, acupuncture, yoga, AIDS-related services, support groups, and social activities. There are even food and clothing banks for patients in need. These dispensing collectives are functioning as full-fledged health care centers that are entirely supported by members. There is absolutely no burden on tax payers or city services. When dispensing collectives are allowed to grow and develop with a supportive and involved community behind them, the possibilities for a better life for the seriously ill will be extraordinary.

Educate Yourself

This booklet is only an introduction to medical cannabis and dispensing collectives, and should serve as the starting point for a much larger community discussion. Neighbors and business owners ought to be involved in an ongoing dialogue with dispensing collective operators so that local medical cannabis implementation reflects the values and standards of the community. Everyone should be working together to make sure the will of the voters is upheld, and that patients get the medicine and support they require and depend upon.

There are numerous organizations working to educate the public about medical cannabis. You can find plenty of information on the Internet by searching for the words "medical marijuana" or "medical cannabis." The largest and most effective medical cannabis advocacy organization in the country is Americans for Safe Access (ASA). You can find ASA on the Internet at www.SafeAccessNow.org, or you can call them toll-free at (888) 923-6347.

About the Author

Don Duncan has been active in the grassroots campaign for cannabis and medical cannabis law reform since 1994. He currently serves as a Board of Director for Americans for Safe Access, Musicians for Medical Marijuana, and the Cannabis Action Network. Mr. Duncan is the Co-Director of one of California's oldest and most reputable dispensing collectives with locations in Berkeley, Hollywood and West Hollywood. He has worked closely with elected officials, law enforcement, and community members in local implementation efforts in several California cities and counties.

Mr. Duncan is currently working on a book for publication in 2006 called *The ABC's of Medical Marijuana – How and Why to Open a Dispensary*. Direct inquiries to Don Duncan, 7211 Santa Monica Blvd. #800, West Hollywood, CA 90046, call (323) 326-6347, or email donduncan@yahoo.com.

¹ *Cannabis* is the correct medical term for the plant commonly known as *marijuana*.

² *Conference on cannabis L.*, January 14, 1937; Washington, D.C. The history and motives of cannabis prohibition are complex and controversial. A great deal of information about this topic is available at libraries and on the Internet.

³ See "Drug Crazy: How We Got Into This Mess and How We Can Get Out" by Mike Gray. Random House, 1998. See also "Marijuana Rx: The Patients' Fight for Medical Pot" by Robert C. Randall and Alice M. O'Leary. Thunder's Mouth Press, 1998.

⁴ "Marijuana as Antiemetic Medicine: A Survey of Oncologists' Experience and Attitudes." *Journal of Clinical Oncology*, Vol. 9(7) (1991) pp. 1314-1319.

⁵ California Health and Safety Code §11362.765 (c).

⁶ California Health and Safety Code §11362.775.

⁷ *Lungren v. Peron* (1998).

⁸ Case law now exists that allows for a dismissal of a case "in the interest of justice" when the case falls outside the technical criteria for a medical cannabis defense under California Health and Safety Code §11362.5, etc. *People v. Konow* (2004) would also apply to a case involving a dispensing collective.

⁹ *Gonzales v. Raich* (2005).

¹⁰ Field Research Corporation (San Francisco, CA) field poll conducted January 2004.