

## Online submission to the Victorian Law Reform Commission

### MEDICINAL CANNABIS REFERENCE

<b>Number</b>	37
<b>Name</b>	Cannabis Policy Project
<b>Date</b>	20 April 2015

<b>Question 1</b>	<p>Which of the following considerations should determine whether there are exceptional circumstances for medicinal cannabis to be made available to a patient:</p> <ul style="list-style-type: none"><li>(a) the circumstances of the patient</li><li>(b) the state of clinical knowledge about the efficacy or potential efficacy of using cannabis in treating the patient's condition</li><li>(c) both of the above?</li></ul>
<b>Response</b>	<p>The circumstances of the patient should be paramount in determination. It needs noting that pain is by far the most common ailment treated with cannabis in jurisdictions allowing for medicinal cannabis. Coupled with the epidemic of opiate overdoses there is an overwhelming case requiring any pain which has been deemed by a medical practitioner to be such that they would prescribe opiates then cannabis should be an alternative offered to the patient. In Victoria the amount of oxycodone alone being prescribed has gone from 7.5 mg per capita in 2000 to 67.5 mg per capita in 2009, a nine-fold increase (Rintoul, A.C., Dobbin, M., Drummer, O.H., &amp; Ozanne-Smith, J. (2011). Increasing deaths involving oxycodone, Victoria, Australia, 2000-09. <i>Injury Prevention</i>, 17(4), 254–259.</p>
<b>Question 2</b>	<p>For what conditions is there sufficient knowledge of the therapeutic benefits, dangers, risks and side effects of cannabis to justify allowing sufferers to use it lawfully in Victoria?</p>
<b>Response</b>	<p>(No response)</p>
<b>Question 3</b>	<p>What special considerations, if any, justify access to medicinal cannabis for:</p> <ul style="list-style-type: none"><li>(a) patients who are under 18 years of age</li><li>(b) patients who lack capacity by reason of age or another disability (other than youth) to consent to using medicinal cannabis?</li></ul>
<b>Response</b>	<p>(No response)</p>

<b>Question 4</b>	<p>On which of the following should the law creating a medicinal cannabis scheme base a person's eligibility to use medicinal cannabis:</p> <p>(a) a list of medical conditions</p> <p>(b) a list of symptoms</p> <p>(c) a list of symptoms arising from certain medical conditions</p> <p>(d) evidence that all reasonable conventional treatments have been tried and failed?</p>
<b>Response</b>	<p>Any system which makes doctors alone the “gatekeepers” of the system will establish a regime which has faltered in other jurisdictions such as Canada and the United States.</p> <p>The scheme should codify the conditions under which medical cannabis can be made available. Then a document, instead of a prescription, attesting to the patient’s medical condition would be sufficient to access medicinal cannabis. This would avoid the necessity for a Physician to prescribe cannabis but instead the medical practitioner will need only to attest to the existence of a qualifying medical condition.</p> <p>Such a system will lead to enormous savings within the health care system and will avoid putting an undue burden on both Physicians and patients.</p>
<b>Question 5</b>	<p>Should there be a way to allow for special cases where a person who is otherwise ineligible may use medicinal cannabis? If so, what should that be?</p>
<b>Response</b>	<p>(No response)</p>
<b>Question 6</b>	<p>If Victoria acted through a state agency, in what circumstances would it be legally entitled to establish a medicinal cannabis scheme which manufactured cannabis products without breaching the terms of the <i>Therapeutic Drugs Act 1989 (Cth)</i> or the <i>Narcotic Drugs Act 1967 (Cth)</i>?</p>
<b>Response</b>	<p>(No response)</p>
<b>Question 7</b>	<p>Are the regulatory objectives identified by the Commission appropriate? What changes, if any, would you make to them?</p>
<b>Response</b>	<p>Whilst it is desirable to work with the Commonwealth the Commission should focus on recommending regulatory changes that can be achieved within the jurisdiction of Victoria.</p>
<b>Question 8</b>	<p>Would the creation of a defence to prosecution for authorised patients and carers in possession of small amounts of dried cannabis or cannabis products be an adequate way of providing for people to be treated with medicinal cannabis in exceptional circumstances?</p>
<b>Response</b>	<p>It would not be an adequate way of providing for medicinal cannabis however it would be one of many required changes.</p>

<b>Question 9</b>	What mechanism should Victoria use to regulate the cultivation of medicinal cannabis?
<b>Response</b>	The issues paper has unfairly singled out Canada to argue against a home grow regime. The situation prior to the 2014 changes was such that a grower was licensed to provide for a small number of patients however due to what can only be described as a loophole the amount per patient was open-ended thus providing for diversion. A two-tiered system of regulation should be adopted by Victoria whereby home grow is allowed with carefully defined limitations to avoid diversion. A second tier of regulated, licensed growers should exist in order to provide for patients unwilling or unable to home grow and which will also provide for a wider range of products with varied cannabinoid profiles.
<b>Question 10</b>	What approach, or approaches, should Victoria take to regulating how medicinal cannabis is processed and distributed?
<b>Response</b>	<p>Accessibility must be a straight forward process if a regulated supply is to be maintained and the black market is to be eradicated. In Canada, the only legal method for distribution specified in the governing regulations is via mail order. However, this narrow method of distribution has made the product difficult to access on a regular basis. The unattended consequence is that demand has been filled by dispensaries (particularly in Vancouver) operating across Canada that are illegal. Licensed producers regulated by Health Canada would lose their license if they sold to these organizations and as such the black market is still a reality – something the new regime instituted in Canada was supposed to address and limit.</p> <p>Furthermore, it is conceivable that medically approved cannabis products will range from pre-packaged oral treatments through to raw cannabis with various cannabinoid profiles at various weights and strengths. Pharmacies and pharmacists are neither equipped nor trained to deal with this new range of medicines. It is our contention that a regulated medicinal cannabis regime can only be delivered through a properly regulated dispensary system.</p> <p>We understand that a dispensary model may conjure up the images of quasi-recreational usage as per California. However, if this issue is not addressed it is very conceivable that an unregulated system supplied by the black market will continue to fill the void.</p> <p>It is only through approved and regulated dispensaries that patients will be able to access expert advice and a full range of cannabis products. A State regulated dispensary system should be established.</p>
<b>Question 11</b>	How should the Victorian medicinal cannabis scheme interact with the national arrangements for the control of therapeutic products under therapeutic goods legislation and narcotic drugs legislation?
<b>Response</b>	(No response)

<b>Question 12</b>	What responsibilities should be given to health practitioners in authorising a patient's use of medicinal cannabis?
<b>Response</b>	As per the answer to Question 4, the Victorian scheme should codify the conditions treatable by medicinal cannabis. In so doing a health practitioner will only need to attest to the patients condition and thereby give them access to medicinal cannabis. Such an approach will avoid the medico-legal issues that will likely be of considerable concern to the medical fraternity as well as obstructionist governing bodies (as per Canada's experience where the equivalent of the AMA advised doctors against participating in the program).
<b>Question 13</b>	Who should have the authority to assess whether a patient is an appropriate candidate to be treated with medicinal cannabis: (a) all registered medical practitioners (b) certain designated specialist medical practitioners (c) registered health practitioners who have prescribing entitlements (d) a subset of these?
<b>Response</b>	The inclusion of nurse practitioners in the new Canadian regulations cannot be underestimated. It speaks to a continuing problem of accessibility to the program whilst doctors are the only gatekeepers. Victoria should similarly allow for as wide a body of practitioners as possible, not just doctors, to assess and approve patients to access medicinal cannabis.
<b>Question 14</b>	What requirements, restrictions, guidance or other assistance should health practitioners be given in monitoring a patient's use of medicinal cannabis?
<b>Response</b>	(No response)
<b>Question 15</b>	What additional restrictions or requirements, if any, should apply to patients who are vulnerable by reason of age or lack of capacity, so as to provide adequate protection for their welfare?
<b>Response</b>	(No response)
<b>Question 16</b>	In what form(s) should medicinal cannabis be permitted to be supplied and used?
<b>Response</b>	Medicinal cannabis should be available as dried buds, edibles, tinctures and oils.
<b>Question 17</b>	In what ways could Victoria's medicinal cannabis scheme keep pace with, and contribute to, clinical research into the therapeutic uses of cannabis and other changes in scientific knowledge, medical practices and technology?
<b>Response</b>	(No response)