Written Testimony of Darren J. Sommer, DO
Submitted As An Interested Party on
Behalf of the Ohio Osteopathic Association
Ohio House of Representatives Task Force on Medical Marijuana
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Chairman Schuring and members of the Committee. My Name is Darren Sommer, DO, and I am testifying as an interested party on behalf of the Ohio Osteopathic Association regarding the legalization of medical marijuana in Ohio. I am an actively practicing internal medicine physician here in Central Ohio, and immediate past President of the Columbus Osteopathic Association. I have been a physician for almost 15 years and my background beyond my medical degree includes a Master’s Degree in Public Health, MBA from Duke with Health Sector Management Certification, more than 20 years of military service, and two combat deployments. I am also a Health Policy Fellow for the American Osteopathic Association.

The decision to legalize marijuana for medicinal purposes is clearly a contentious issue. The Ohio Osteopathic Association has chosen not to debate the medical benefits or dangers of marijuana use. This has been done for years with both sides cherry-picking data that supports their desired position. Instead, we would like to address three strictly administrative issues that my medical colleagues and I will face if medical marijuana is legalized in Ohio. These include (1) the conflict between state and federal laws (2) the confusion around prescribing marijuana and (3) the differences between medical marijuana and commonly prescribed drugs.

First, the Controlled Substances Act (CSA) has designated marijuana as a Schedule I drug (most restricted class) based on the determination that it had no known “accepted medical use.” It is the Drug Enforcement Agency (DEA) that executes the enforcement of the CSA under federal law with the cooperation of local law enforcement. When, a state grants its residents the legal rights to cultivate, distribute, sell and or consume marijuana, it offers them no protections under federal law. In fact, the US Supreme Court weighed in on this decision with Gonzales v. Raich and decided that under the Commerce Clause, the federal government has precedence over state rights for the enforcement of the CSA. Therefore, the decision to enforce the CSA as it relates to medical marijuana becomes subjective based on the ideology of the most current Administration. This lack of long-term consistency places physicians who are participating and abiding by state marijuana laws in a precarious situation with the Federal Government.

Second, it is also important to recognize that in any state that has legalized marijuana, physicians do not write a “prescription” for the drug. Doing so would place them at risk for federal prosecution. Physicians make written medical “recommendations” for medicinal marijuana, which allows a patient to obtain and utilize the drug. Interestingly, state medical boards have attempted to walk a fine line between accepting that physicians licensed in their state will recommend marijuana based on state laws, but also appreciate the contradiction with federal rules. Physicians, therefore, make these recommendations as an aid to the treatment of a patient’s disease. Even if a physician felt comfortable writing a prescription based on the reclassification of marijuana, other factors may still limit a patient’s access. For instance, malpractice coverage is typically only extended to actual prescriptions of FDA approved medications.
Third, the FDA, acting under the authority of the Federal Food, Drug and Cosmetic Act, has the responsibility to oversee that pharmaceuticals sold in the United States are safe and effective for consumption. The FDA’s drug approval process requires well-controlled clinical trials that provide the necessary scientific data upon which FDA makes its approval and labeling decisions. Currently, ALL prescription medications sold in the US are federally approved drugs by the Food and Drug Administration (FDA). This means that everything from a bottle of Tylenol to a lipid-lowering drug like Lipitor has gone through rigorous testing and is exactly the same regardless of where it is purchased in the US. This is impossible to do with marijuana that is grown, harvested and ingested in various forms.

Currently, estimates suggest that less than one percent of the population would truly need marijuana for medicinal purposes. That is about 120K Ohio residents. The implications from the passage of such a law versus the minority of people impacted is extraordinarily imbalanced.

If, the State of Ohio feels compelled to provide its citizens with the right to use marijuana, it should NOT do so by placing Ohio physicians at risk, for the reasons cited above.

REFERENCES


