

**ACT Greens**  
**Medicinal Cannabis**  
**Discussion Paper**



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**July 2014**

## Consultation Period: 21 July 2014 to 15 September 2014

Shane Rattenbury MLA, Greens Member for Molonglo, invites your feedback and submissions on the proposals in this paper and the exposure draft of the *Drugs of Dependence (Cannabis Use for Medical Purposes) Amendment Bill 2014*.

We would like to hear feedback from all sectors of the community, including the medical and health profession, the general public, and people working in drug policy, law reform and enforcement.

The discussion paper poses questions (in red) which might help guide submissions.

All comments received by 15 September 2014 will be considered in preparation of the final version of the proposal.

This discussion paper and the exposure draft of the *Drugs of Dependence (Cannabis Use for Medical Purposes) Amendment Bill 2014* are available from:

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### **Important note regarding your privacy:**

If you do not wish your submission to be published or would like it published without your name, please indicate this. Unless this is clearly indicated, it will be assumed that your comments can be made public.

## Foreword

The ACT Greens believe that people dying from terminal illnesses, or enduring chronic pain, should be able to use cannabis to alleviate the symptoms caused by their illnesses.

We believe that people who are ill or dying should not be stigmatised or prosecuted for trying to relieve their suffering. The ACT Greens have long held that people suffering from chronic pain or terminal illness should have the right to make decisions about their treatment.

As a representative in the ACT Legislative Assembly, I have been contacted by members of the community who have shared their personal stories of suffering, and their desire to see changes to the regulation of cannabis for medical use.

I have heard from people of all walks of life. They, or their friends or family, are terminally ill or suffering from chronic pain or discomfort. One common feature of the correspondence is that it often starts with a disclaimer; that they are “anti-drug” and had never thought of using cannabis until they had exhausted every other attempt to relieve their pain or symptoms. In many cases the side effects of routine pharmaceuticals have been intolerable when combined with the symptoms of the illness itself.

This discussion paper tells the stories of those who find themselves in the difficult circumstance of requiring access to medicinal cannabis. I thank them for their contribution to this process. I hope that their stories help others to understand the rationale for this legislation: showing compassion to people who are ill, suffering or dying.

In conjunction with this discussion paper I am releasing draft legislation for community discussion prior to its introduction to the ACT Legislative Assembly. The legislation will allow people with a genuine medical need to legally use cannabis for treatment. It will also permit the person, or nominated care givers, to grow cannabis plants for that purpose.

The current laws here in ACT and around the country mean that otherwise law-abiding citizens are forced to risk criminal sanction and condemnation, or go without treatment.

Given the evidence, I believe it would be cruel to deny people who are suffering and dying when we can provide access to treatment that could relieve their pain.



*Shane Rattenbury, MLA  
ACT Greens Member for Molonglo*

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## Why do we need this legislation?

There are members of our community dying from terminal illness or suffering from chronic pain or discomfort. Many of these people have found that cannabis greatly reduces their pain or symptoms when standard medicines have either failed or caused serious or unacceptable side effects.

There is strong evidence that cannabis can effectively treat a range of symptoms caused by serious illnesses. These range from terminal illnesses such as cancer and AIDS, to managing chronic conditions such as Multiple Sclerosis, some forms of epilepsy, gliomas, nerve damage, glaucoma, inflammatory bowel disease, type-2 diabetes and arthritis. Cannabis can also be used to treat the side effects of some treatments, such as nausea induced by chemotherapy.

Fifteen years ago experts in the USA, the UK and Australia examined the possible medical application of cannabis and determined that it can have medical value treating various conditions.<sup>1</sup> The evidence has grown and is now considered so persuasive that approximately twenty countries have developed medical cannabis programs for their citizens.

Almost 70% of Australians are supportive of allowing some use of cannabis for medical purposes.<sup>2</sup>

*“I am a 39 year old living in Canberra and working as Manager in the federal public service. In my early 30s I was diagnosed with a rare form of debilitating arthritis. After several years of daily anti-inflammatories (NSAIDs) I slowly became intolerant of them. They cause me stomach pain, sleeplessness and nausea and I began to look at ways to reduce my dose. I tried cannabis through a vaporizer on recommendation from a friend as it was being talked about on international forums dedicated to my disease. It has been a great help in assisting me with sleep and reducing my reliance on medication with side-effects. It gives me a chance at sleep and reduced muscle spasms. Both my specialists know I take cannabis and ‘approve’ without formally recommending or recording that I take it. Side-effects seem to be very mild. My wife is against cannabis legalisation or decriminalisation in theory (which was initially awkward) and she has seen the benefit I’ve been getting. It’s a bit of a strange situation. Of course, we keep it a secret from almost everyone.”*

**Name withheld for fear of criminal sanctions**

<sup>1</sup> Janet Joy, et al (eds), Institute of Medicine, Marijuana and Medicine: Assessing the Science Base, 1999 ([http://www.nap.edu/openbook.php?record\\_id=6376](http://www.nap.edu/openbook.php?record_id=6376)); Working Party on the Use of Cannabis for Medical Purposes, Report of the Working Party on the Use of Cannabis for Medical Purposes, August 2000 (<http://ndarc.med.unsw.edu.au/resource/report-working-party-use-cannabis-medical-purposes-vol-1>); House of Lords Science and Technology Committee 9th report, Cannabis, Session 1997, 98. (<http://www.parliament.the-stationery-office.co.uk/pa/ld199798/ldselect/ldscstech/151/15101.htm>)

<sup>2</sup> Based on a 2010 Commonwealth Health Department survey: AIHW 2011. 2010 National Drug Strategy Household Survey report. Drug statistics series no. 25. Cat. no. PHE 145. Canberra: AIHW. <http://www.aihw.gov.au/publication-detail/?id=32212254712>

A wide range of doctors, scientists, and community groups such as the Cancer Council,<sup>3</sup> NSW Nurses and Midwives' Association (NSWMNA)<sup>4</sup> and the Australian Medical Association<sup>5</sup> support patients having access to cannabis in certain circumstances.

Yet in the ACT, and Australia, it is illegal for sick or dying people to possess or use cannabis to relieve their pain. It is difficult for them to access cannabis, and in some cases people resort to illegal activity and risk criminal penalties. As a result, situations arise where doctors or carers are compelled to make the difficult decision to break the law in order to give a patient or loved one the pain relief they need. This legislation will mean that people who are dying or suffering from chronic pain will be able to access medical cannabis without the risk of prosecution.

## What will the proposed legislation do?

The legislation proposed by the ACT Greens would permit people suffering from chronic pain due to an illness to legally use cannabis to self medicate. It would also permit the person, or a person nominated by them, to grow cannabis plants for that purpose. The legislation relates to botanical cannabis – that is the phytocannabinoids that are present in the *Cannabis sativa* plant (including THC and cannabidiol), and does not include pharmaceutical or synthetic cannabinoids.

The legislation makes it legal for people suffering chronic or terminal illnesses to use cannabis for medical purposes. It does not attempt to set up a system for selling or supplying cannabis to people, nor does it set up a system for quality control of cannabis.

In taking this step, this legislation attempts to provide legal access to treatment for people who are suffering. It will reduce the stigma attached to medical cannabis that is feared by many people who rely on cannabis treatment as the only way of relieving their pain or discomfort.

This approach is similar to the system used for many years in Canada<sup>6</sup> and several parts of the United States. It is also similar to the scheme recommended in May 2013 by the NSW Parliament's Legislative Council's General Purpose Standing Committee in its report on the use of cannabis for medical purposes.<sup>7</sup>

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<sup>3</sup> Cancer Council Position Statement: Medical Use of Cannabis Approved 4 October 2012, Updated 9 November 2012. <http://www.cancerCouncil.com.au/wp-content/uploads/2010/09/Position-Statement-on-Medical-Use-of-Cannabis-FINAL.pdf>

<sup>4</sup> Media Release: 'Nurses and midwives back petition regarding medical cannabis use', Issued June 15 2014. <http://www.nswnma.asn.au/wp-content/uploads/2014/06/NSWNMA-media-release-150614-Nurses-and-Midwives-back-petition-regarding-medical-cannabis-use.pdf>

<sup>5</sup> Australian Medical Association Position Statement 'Cannabis Use and Health', 1 May 2014 <https://ama.com.au/position-statement/cannabis-use-and-health-2014>

<sup>6</sup> The Canadian law allowed people with a severe illness, and with their doctor's approval, to apply to Canada's Health office for permission to grow and use cannabis for personal pain relief. Recently, however, Canada has controversially begun the process of transitioning to a system that only allows cannabis to be grown by commercial growers.

<sup>7</sup> New South Wales Parliament Legislative Council General Purpose Standing Committee No. 4 *The use of cannabis for medical purposes*, May 2013. ([http://www.parliament.nsw.gov.au/Prod/Parliament/committee.nsf/0/FDB7842246A5AB71CA257B6C0002F09B?open&refnavid=CO4\\_1](http://www.parliament.nsw.gov.au/Prod/Parliament/committee.nsf/0/FDB7842246A5AB71CA257B6C0002F09B?open&refnavid=CO4_1)) (NSW Committee Report)

## The legislation in detail

Under this proposal, eligibility to use cannabis for medical purposes would be strictly controlled. The intention is that cannabis possession and use is only permitted for people who need it to treat genuine, serious illness.

Before a person is allowed to use cannabis to treat their pain, their doctor would need to provide a medical declaration and agree that their illness and pain justifies the use of cannabis. The medical declaration must include details such as:

- the applicant's medical condition;
- that the doctor has discussed the likely risks and benefits of using cannabis;
- how the applicant would administer the cannabis and manage its use; and
- certification that the patient has tried or considered conventional treatments.

The person must then apply to the ACT Government's Chief Health Officer for a permit to possess and use cannabis.

### Categories of application to use cannabis

There would be three categories of application for a permit to use cannabis.

**Category 1** is for use for the mitigation of a symptom of a terminal illness or its treatment. A terminal illness is defined as a medical condition for which the prognosis is death within 1 year. Category 1 applications require the patient's doctor to declare that the patient has tried or considered all conventional treatments for the symptoms of the illness or its treatment.

**Category 2** applications are for the mitigation of symptoms of serious diseases or conditions. The legislation lists these diseases or conditions as cancer, AIDS, HIV infection, spinal cord injury or disease, multiple sclerosis and epilepsy. It also lists relevant symptoms applicable to each of the diseases or conditions, such as severe nausea for cancer, and seizures for epilepsy. The legislation also allows further diseases or conditions and symptoms to be prescribed in this category by regulation.

Category 2 applications require the patient's doctor to declare that the patient has tried or considered all conventional treatments for the symptoms of the illness or its treatment and each of them is medically inappropriate (for reasons such as: the treatment is ineffective; the patient has an adverse reaction to it; it is not compatible with other medication the patient is taking). This is a stricter standard than that

*Recently my Aunt was diagnosed with Stage 4 cancer. She underwent chemotherapy but a combination of the nausea from the chemo drugs and the tumour in her stomach made it almost impossible for her to eat. As a result she lost a lot of weight, was constantly tired and struggled to get out of bed most days. Her original diagnosis of 6 - 12 months was cut to 1 - 3 months as a result of the rapid deterioration due in part to her inability to consume more than a few hundred calories a day. The Cancer Council of Australia supports the use of cannabis for patients like my Aunt and thousands of patients in countries where medical cannabis is legal have benefitted from what is a sensible and compassionate policy. I understand that any legislation will be far too late for my Aunt but I would hope that one day soon medical cannabis will be an option for Canberrans who suffer needlessly due to the lack of support or political will to introduce a medical cannabis program in the ACT.*

*Canberra resident  
Name withheld on request*

applied to Category 1 applications, which only requires all regular treatments to have been tried or considered.

For a Category 2 application, the declaring doctor will need to specialise in the area of medicine relevant to the treatment of the applicant's medical condition.

**Category 3** applications are for the mitigation of other medical conditions or their treatment. These may be any number of chronic and debilitating conditions.

For these applications the applicant will need a medical declaration from two doctors. The doctors will also need to specialise in the area of medicine relevant to the treatment of the applicant's medical condition.

Examples of diseases or conditions that are eligible in other jurisdictions, and are likely to be included in Category 3 applications, include: glaucoma, Crohn's disease, and Parkinsons disease. The legislation would allow the Health Minister to add specific diseases or conditions to the list in Category 2 via regulation.

An application can also nominate a person who will help the person to administer the cannabis.

*Q: Are the recognised illnesses and conditions appropriate?*

*Q: Are the requirements for medical involvement in the application process appropriate and adequate?*

*Q: Is it sufficient that for Category 2 and Category 3 applicants all regular treatments are "medically inappropriate"? Should other factors be relevant – for example, if a treatment is unaffordable?*

### Role of the Chief Health Officer

The Chief Health Officer (CHO) must approve an application that meets the conditions outlined above. However, the CHO is empowered to refuse applications where false or misleading information is provided or if the CHO has reasonable grounds for disagreeing with anything stated in a medical declaration accompanying the application.

It is expected that the CHO will issue approved patients and nominated persons with a photo identity card, which will allow authorities to easily verify a patient's, or nominated person's, eligibility. Almost all of the US states with a medical cannabis scheme use a similar system of identification cards. This would need to be established in the ACT via a regulation, or administratively.

While children would be eligible for a permit to use cannabis if they are successful in a Category 1 or 2 application, under this proposal the CHO could not approve Category 3 applications for children (that is, applications relating to a condition not otherwise recognised in the legislation). This distinction seeks to balance the policy of allowing pain relief with the adverse affects that cannabis use can have on younger people in particular.

*Q: Does the legislation strike the right balance in regards to eligibility for children to use medical cannabis?*

If the CHO proposes to refuse an application, the CHO must allow an applicant a chance to respond and make representations.

The CHO must set conditions on the permit to use cannabis. These include:

- a requirement that the cannabis is only used for the purpose of the approval (i.e. to treat the specified illness/symptoms);
- a requirement that the person's doctor regularly reviews their medical condition and the impact of using cannabis; and
- a maximum quantity of cannabis the person may possess at any time.

US States similarly specify limitations on the quantity of cannabis someone may possess.<sup>8</sup>

The CHO may cancel an approval if they believe, on reasonable grounds, that the holder, or the nominated person, has contravened a condition of the approval.

A permit to use cannabis may only be given for a period of 1 year at a time, but the person may seek a renewal.

*Q: Are the conditions for permits to use cannabis sufficient and appropriate?*

Permit to grow cannabis

If a person is permitted to possess and use cannabis, they may also apply to the Chief Health Officer (CHO) for a licence to cultivate cannabis. The licence is effective for a maximum of 1 year before needing to be renewed.

The application to cultivate cannabis must provide various details, such as the address where the cannabis is proposed to be cultivated and kept, and the security measures that will be in place.

Various safeguards will operate to prevent abuse of the permit conditions. The cultivation option will only be available to a person who has already been approved to possess and use cannabis, or a person nominated by them. The person must also be an adult and must not have had a cultivation licence revoked in the past 5 years. A person cannot hold multiple cultivation licences and multiple cultivation licences cannot be provided for the same premises.

The licence requires that cultivated cannabis may only be used for the purpose stated in the licence (i.e. for medical purposes for the person with an approved illness or condition). It also must contain conditions about the maximum number of plants that may be under cultivation at any time under the licence and the maximum amount of cannabis that may be kept at any time under the licence. As an additional measure to prevent cannabis being distributed or stored for other purposes, the amount kept may never be more than a 'trafficable quantity'. A trafficable quantity is defined under

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8. For example, in California, a patient may possess up to eight ounces of usable cannabis and six mature plants or 12 immature plants Marijuana Policy Project, State-by-State Marijuana Laws 2013, <http://www.mpp.org/legislation/state-by-state-medical-marijuana-laws.html>

the ACT Criminal Code and its regulation, and is currently 300g of cannabis or 10 cannabis plants.

*Q: Are the conditions for permits to cultivate cannabis sufficient and appropriate?*

#### Review of the legislation and further options

Some countries, such as the Netherlands, highly regulate the cultivation and supply of cannabis for medical use to ensure pharmaceutical quality and accessibility to the treatment. States in the USA provide access to medical cannabis through shop-front dispensaries which sell the product. These models have the advantage of allowing easier access to cannabis for those who need it and (in the Netherlands model) of guaranteeing a consistent product.

This legislation does not go that far. It takes the first steps to allow people who are terminally ill and suffering to access to pain relief and treatment. It does not regulate the cultivation or supply of cannabis beyond issuing permits for individuals to grow their own cannabis plants.

Given the fact that no Australian jurisdiction has yet accepted the arguments for providing regulated access to medicinal cannabis and that it could take some time to establish a more sophisticated model of government endorsed supply (which is also likely to involve the Federal Government), the Greens have initially presented a model to allow people access to pain relief and treatment now. If it proves difficult to move to a fully functioning model of Government supply, the Greens proposal will allow access in the meantime.

The Greens' bill also proposes reviewing the medical cannabis scheme after 3 years.

The review will be undertaken by a committee of various stakeholder representatives including medical professionals, the police, the general community, as well as advocates of people suffering from relevant medical conditions. A report from the review would be tabled in the Legislative Assembly to guide any changes or amendments to the scheme. At time the Legislative Assembly, in consultation with the community, would consider options for possibly expanding or otherwise changing the scheme.

*Q: Is 3 years an appropriate period before the review occurs?*

## Questions and Answers

As with most medical treatments, the benefits they offer patients must be balanced with any potential risks. Some questions commonly raised by community members are addressed below:

*Will allowing the use of cannabis for medical purposes lead to greater cannabis use in the community more broadly?*

This question was raised in the context of the NSW Committee by Family Voice Australia, the Christian Democrat Party and Drug Free Australia.

There is no concrete evidence that passing medical cannabis laws increases cannabis use generally.<sup>9</sup>

Given current availability of cannabis in the community, and the narrow scope for cannabis cultivation provided for in the legislation, this legislation is unlikely to have an impact on the broader consumption of cannabis.<sup>10</sup>

***Given current availability of cannabis in the community, and the narrow scope for cannabis cultivation provided for in the legislation, it is unlikely to have an impact on the broader consumption of cannabis.***

Empirical research in US states shows that there is a correlation between states which allow the use of medicinal cannabis and a higher prevalence of cannabis use. However, the evidence suggests that this is because states with a higher rate of cannabis consumption in the community are more likely to enact the laws and there is “very little evidence that passing [medicinal cannabis laws] increases reported use, among adolescents or any other age group.”<sup>11</sup> It states that “reported adolescent marijuana use may actually decrease after passing [medicinal cannabis laws]”, which could be partly explained by greater concern about enforcement of adolescent recreational marijuana use after the passage of laws.<sup>12</sup>

The USA’s Institute of Medicine made the point, in its report to Congress on medical cannabis, that there should “not be a problem if the medical use of marijuana were as closely regulated as other medications with abuse potential”.<sup>13</sup>

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<sup>9</sup>. Wall, MM et al, “Adolescent marijuana use from 2002 to 2008: higher in States with medical marijuana laws, cause still unclear”, *Annals of Epidemiology*, Volume 21(9), 714, September 2011.

<sup>10</sup> NSW Committee report, above n5, pp xv

<sup>11</sup>. Sam Harper et al, “Do Medical Marijuana Laws Increase Marijuana Use? Replication Study and Extension”, *Annals of Epidemiology*, Volume 22(3), 207, March 2012.

<sup>12</sup>. Ibid

<sup>13</sup>. Janet Joy, et al (eds), *Institute of Medicine, Marijuana and Medicine: Assessing the Science Base*, 1999

The proposed legislation for the ACT would establish a system whereby a patient must receive certification from a specialist medical practitioner and receive approval from the Chief Health Officer. It is not expected that the use of medicinal cannabis will be widespread or even particularly visible (unlike some US States for example, which distribute cannabis via retail dispensaries). It will be important that the Government continues to educate the public, and particularly young people, about the harms of cannabis.

*I took early retirement to be my wife's fulltime carer – she was forced into early retirement due to her several disabilities including severe Myalgic Encephalomyelitis, severe Obstructed Sleep Apnoea and Idiopathic Hypersomnia. I held responsible positions in private and public sector employment and I have a postgraduate degree. I was also a Justice of the Peace for many years but now in my late 50's, I find myself acting illegally to procure cannabis for my wife's health and wellbeing. If I am busted and incarcerated, there is no one to look after my invalid wife. We are otherwise law abiding citizens.*

*Prior to her forced retirement, my wife's employment included (going backwards chronologically): IT Project Manager, licensed electrician and microbiologist. My wife can no longer enjoy her hobbies that included: bushwalking, x-country skiing, canoeing, abseiling, camping, bicycling, dancing, kendo (a martial art), target shooting, reading, DIY around the house, car maintenance, exercising/playing with her dogs and riding her motorcycle. My wife is now mostly house and bed bound.*

*There is no cure for my wife's disabilities and prescribed medication does not work for her. But cannabis provides her with symptomatic relief and appears to be helping her health conditions albeit very slowly – we are hopeful.*

*I have not been able to secure a reliable source of cannabis in ACT for my invalid wife so I am compelled to travel to Nimbin regularly at considerable cost, effort and time (away from my wife) to get it in bulk. I can only buy what we retirees can afford and what's available on the street – I cannot be certain as to the quality or the efficacy of the cannabis varieties purchased at the time.*

*– Name withheld for fear of criminal Sanctions*

### Can cannabis cause side effects or mental health issues?

The evidence presented by experts to the recent NSW Committee inquiry is that the correlation between cannabis psychosis or schizophrenia is inconclusive. However, there is evidence that cannabis use can cause deterioration in a person already prone to psychosis, and that regular use in children can harm brain development.<sup>14</sup> These risks must be balanced with the benefits medical cannabis can offer patients.

It is widely accepted that some medications (e.g. opiates or chemotherapy) have side effects or other detrimental impacts on health and these must be balanced against the relief or treatment the medications provide. When considering this question of acceptable risk with regards to cannabis use, the USA's Institute of Medicine considered this question and determined: "Except for the harms associated with

<sup>14</sup>. NSW Committee report, above n5, pp 57-58

smoking, the adverse effects of marijuana use are within the range of effects tolerated for other medications.”<sup>15</sup>

The proposed legislation aims to mitigate potential risks by closely involving a patient’s medical practitioner who can support patients and explain the potential risks involved with treatment. The legalisation of medical cannabis will provide an avenue for patients to discuss their cannabis treatment, existing mental health conditions or mental health concerns with a medical practitioner before being issued with the permit, and throughout the course of their treatment.

**“Except for the harms associated with smoking, the adverse effects of marijuana use are within the range of effects tolerated for other medications.”**

The scheme also mitigates against the long-term use of cannabis by requiring that patients undertake an annual reassessment of eligibility. The current proposal does not allow the use of medical cannabis by children, except in cases of terminal illness or other recognised serious conditions (Category 2 illnesses).

*What about the risk factors associated with smoking the cannabinoids?*

Cannabis does not need to be smoked for a patient to receive its therapeutic effect, nor does it need to be consumed with tobacco. There are recognised harms associated with smoking as a delivery method for cannabis; for example, cannabis smoke contains carcinogens and has been implicated in respiratory dysfunction.

There are numerous ways to consume cannabis including vaporisation, eating the leaf in products, or consuming tinctures or capsules. Vaporisation, while still a form of inhaling, heats cannabis enough to release cannabinoids, but not the smoke and toxins generated with combustion; this method therefore have the potential to be significantly healthier than smoking.<sup>16</sup> Medical practitioners will be able to help their patients decide on the best method to administer the treatment.

However, some patients may choose to smoke cannabis despite the risks. For some patients, there may be advantages to inhaling the treatment rather than other delivery methods, such as taking a pill. Inhaling the treatment can allow better dosage control, it works instantly, and it cannot be vomited up if the patient experiences nausea (or indeed is using the cannabis to control their nausea). While smoking cannabis is not recommended, some medical practitioners support that it remain an option for the very sick, particularly those who are dying of a terminal illness.<sup>17</sup>

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<sup>15</sup> Janet Joy, et al (eds), Institute of Medicine, *Marijuana and Medicine: Assessing the Science Base*, 1999

<sup>16</sup> Australian Drug Law Reform Foundation, Submission to Inquiry Into Use Of Cannabis For Medical Purposes. [http://www.parliament.nsw.gov.au/prod/parliament/committee.nsf/0/01a4fb3795fa2954ca257b1a001ad2ab/\\$FILE/0054%20ADLRF.pdf](http://www.parliament.nsw.gov.au/prod/parliament/committee.nsf/0/01a4fb3795fa2954ca257b1a001ad2ab/$FILE/0054%20ADLRF.pdf)

<sup>17</sup> See for example, NSW Committee report, Above n5, pp 55-56

By involving the patient's medical specialist, the proposed legislation supports an ongoing dialogue between the patient and their doctor. The patient's doctor will regularly review the patient's medical condition and the impact of using cannabis and will support the patient in evaluating the potential risks associated with different ways of administering the cannabis treatment. It is also expected that as part of a Government education campaign, patients would be warned against smoking cannabis and would be directed towards safer options such as using a vapouriser.

*Since he was just a few months old, Colorado resident 10-year-old Zaki Jackson has suffered from a rare form of epilepsy that, at its worst, causes him to have thousands of seizures a day. The seizures, which his mother describes as a "full body electrocution," render him unable to talk or walk, and sometimes cause him to stop breathing.*

*Over the past decade, his family has tried to combat his syndrome with 17 different pharmaceutical medications, a specialized diet and alternative forms of therapy like acupuncture. The various medications have caused him to gain weight, become incoherent, experience extreme cramping and lose his ability to sleep, but they've never stopped the seizures.*

*Zaki started taking a strain of medical marijuana that's high in cannabidiol, a non-psychoactive ingredient known for treating seizures, and low in THC, which causes pot smokers to feel "high." Since Zaki began the treatment more than a year ago, he has been seizure-free.*

*"He had 10 years of nonstop seizures and sedating medication," his doctor said. "He's now able to start developing as a normal child. He's a delightful, charming kid. Before that he couldn't even be in contact with people. It was a dramatic, complete change.*

**From "Meet the Children who rely on Marijuana to Survive", Huffington Post, [http://www.huffingtonpost.com/2014/01/31/cannabis-for-children\\_n\\_4697135.html](http://www.huffingtonpost.com/2014/01/31/cannabis-for-children_n_4697135.html)**

*Is allowing the use of cannabis for medical purposes necessary given that other drugs and cannabis spray are available?*

For some people suffering from chronic or terminal illnesses, conventional medicines simply do not work, or do not work as effectively, as cannabis treatments. Alternatively, for some patients conventional medicines may work but cause debilitating side effects which cannabis can help to relieve.

Medicinal cannabis spray (a commercial pharmaceutical cannabinoid product called Sativex) is available for use in Australia but only for one specific condition – muscle spasticity arising from multiple sclerosis. In the absence of legal cannabis therapies such as Sativex for most conditions, the cannabis plant remains the most effective, or in some cases the only effective, treatment for some patients.

As currently drafted, the proposed legislation requires that for Category 2 or 3 applications (that is, applications by people other than those with a terminal illness), conventional treatments need to have been tried or considered and must be 'medically inappropriate'. Sufferers of multiple sclerosis related spasticity will therefore only be able to use medical cannabis if Sativex is 'medically inappropriate'. [Though note the discussion question proposed on this issue above under "Categories of application to use cannabis."]

*Will this legislation lead to an increase in the illegal supply of cannabis?*

It is unlikely the proposed scheme will lead to a problem with illegal supply. The proposed legislation establishes a restrictive and highly regulated cultivation licensing scheme which will safeguard against abuse. Cultivation licences are limited to a person who has received a permit based on their medical condition, or a nominated individual. The details of people permitted to cultivate cannabis, the location of cultivation, and the place where cannabis is to be kept are all recorded on a register administered by the Chief Health Officer.

The proposed legislation contains various other safeguards, such as:

- It is not permitted for a person who has been found guilty or convicted of certain drug offences (prescribed by regulation) in the last 5 years to be approved for a cultivation permit;
- The Chief Health Officer (CHO) sets conditions on a licence, including the maximum number of plants that may be under cultivation at any time and the maximum amount of cannabis that may be kept at any time under the licence. This must not be more than a defined "trafficable" amount.<sup>18</sup> These conditions prevent stockpiling of cannabis.
- The CHO must also be satisfied with security arrangements for a person cultivating cannabis (e.g. they should not grow it in an exposed space where it can be stolen);
- The CHO may revoke licences if conditions are breached, and may deny licences to people whose licenses have been revoked in the last 5 years;
- A person cannot hold a licence to grow cannabis for more than 1 person, which prevents people growing or supplying larger amounts of cannabis.

The review panel, which would review the operation of the proposed legislation after three years, will include representatives of the police. It is expected the review will closely examine and respond to any concerns that the police raise about possible abuse of the cannabis cultivation licenses.

*Cannabis can impair a person's inability to operate a vehicle. Will patients using cannabis treatment be allowed to drive?*

It is well established that effects of cannabis can impair a person's ability to safely operate a vehicle. Under the ACT's existing drug-driving laws it is an offence to drive while under the influence of drugs (including some prescription drugs). The

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<sup>18</sup> A trafficable quantity is defined under the ACT Criminal Code and its regulation, and is currently 300g of cannabis or 10 cannabis plants.

proposed legislation to legalise use of cannabis for medical purposes does not change the existing drug driving laws. Patients who use medical cannabis would not be permitted to drive while the drug is detectable in their system.

However, cannabis can remain detectable for a long period after it is ingested, even when it no longer impairs a person's ability to drive. It is plausible that someone who has consumed cannabis for a medical purpose could commit a drug-driving offence due to detectable amounts of cannabis in their body, even when they are not impaired by cannabis. This is an issue on which we are seeking further feedback and which could be considered during the review period.

**Q: How should drug-driving laws deal with the issue of legalised medical cannabis?**

### **How to make a submission:**

We would like to hear feedback from all sectors of the community, including the medical and health profession, the general public, and people working in drug policy, law reform and enforcement.

The discussion paper poses questions (**in red**) which might help guide submissions.

All comments received by 15 September 2014 will be considered in preparation of the final version of the proposal.

This discussion paper and the exposure draft of the *Drugs of Dependence (Cannabis Use for Medical Purposes) Amendment Bill 2014* are available from:

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Ph: 6205 0005 or email [rattenbury@act.gov.au](mailto:rattenbury@act.gov.au).

Submissions should be sent to [rattenbury@act.gov.au](mailto:rattenbury@act.gov.au).

### **Important note regarding your privacy:**

If you do not wish your submission to be published or would like it published without your name, please indicate this. Unless this is clearly indicated, it will be assumed that your comments can be made public.

## Status of medicinal cannabis in Australia and internationally

### Medicinal Cannabis in Australia

ACT	<p>In 2004, ACT Greens MLA, Kerrie Tucker, tabled legislation to legalise the use of cannabis for medical use. The bill was debated but not supported by the Labor or Liberal parties. In 2005, ACT Health conducted further research on options for improving access to cannabis for medical use in the ACT. It identified 5 options:</p> <ul style="list-style-type: none"> <li>• Improve access to nabilone by providing specific funding to appropriate persons. This option was dismissed on advice that other drugs more effective than nabilone had become available.</li> <li>• To participate in a NSW trial of cannabis if it were to occur. The trial did not occur.</li> <li>• The ACT move to exempt cannabis use from prosecution. This Labor Government did not support this option.</li> <li>• The ACT establish a medical cannabis program with cultivation and/or supply of cannabis. This option was not supported because of concern about the difficulty with policing the program.</li> <li>• Seek to obtain Sativex for use for a select patient group after further testing overseas. As discussed above, Sativex has since been added to the Australian Register of Therapeutic Goods as a controlled drug, available on prescription to treat multiple sclerosis related spasticity.</li> </ul> <p>Since this time, the ACT Government has not done further work on the issue of medical cannabis.</p>
NSW	<p>In 1999 a NSW Working Party investigated the issue of medicinal cannabis. The report made several recommendations, including:</p> <ul style="list-style-type: none"> <li>• Identifying more effective and safer ways to administer cannabis (e.g. other than smoking )</li> <li>• Developing a scheme to provide access to cannabis to patients with serious medical conditions, based on compassionate grounds;</li> <li>• A two year trial of a scheme under which approved people with certain medical conditions would be exempted from criminal prosecution for possessing growing or using cannabis to treat their illness.</li> </ul> <p>In 2003 the NSW Government announced it would conduct clinical trials, but despite generating significant publicity, these were not undertaken.</p> <p>In May 2013, the NSW Parliament Legislative Council’s General Purpose Standing Committee reported on its inquiry into the use of cannabis for medical purposes. The Committee agreed that medical cannabis has potential as an effective treatment, “most notably in respect of a number of painful conditions that do not respond to existing treatments”, and that “a compassionate approach is appropriate”. Its recommendations included:</p> <ul style="list-style-type: none"> <li>• Allowing the use and possession of cannabis for medical use by patients with terminal illness (and those who have moved from HIV infection to AIDS), via a defence to NSW criminal laws for use, possession or supply of cannabis.</li> <li>• Establishing a register of ‘authorised cannabis patients and carers’ administered by the NSW of Health. A patient would</li> </ul>

	<p>need certification from their specialist medical practitioner.</p> <p>The NSW Government initially did not support the above recommendations. However, in May 2014, NSW Greens MLC, John Kaye, proposed introducing legislation to implement the recommendations. NSW Nationals MP Kevin Anderson has since agreed to introduce his own bill. The NSW premier has stated his intention to give the bill careful consideration.</p>
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### Examples of Medicinal Cannabis Internationally

USA	<p>Laws to permit the use of medical cannabis have been enacted in 37 US states in the last 35 years, however many of these laws rely on the federal US government to directly provide or authorise a legal supply of medical cannabis which makes the laws ineffectual. However, 20 states (and the district of Columbia) currently have effective laws that remove criminal penalties for patients who use and possess medical marijuana with their doctors' approval or certification and allow patients or a provider/carer to grow their own cannabis for medical use.<sup>19</sup></p> <p>All of the 20 States operate either a patient registry or a patient ID card. There is variation across the States as to the criteria for eligibility, how permission is obtained and how the medical cannabis is supplied. About two thirds of the State schemes allow medical cannabis to be provided through 'dispensaries' - essentially storefronts that dispense cannabis to eligible patients.<sup>20</sup> Dispensaries are subject to different degrees of regulation in different locations (some jurisdictions limit their proximity to schools; some limit the number of dispensaries permissible; some require permits)<sup>21</sup> and their legal status is made more complicated by the differing legal status of cannabis at the Federal level, where distribution of cannabis remains a federal offence.<sup>22</sup></p> <p>The recent NSW Committee report points out several problems with the US approach, including an absence of sufficient medical study of cannabis; and the likelihood that in some jurisdictions users of medical cannabis may not be suffering from a serious illness.<sup>23</sup></p>
Netherlands	<p>The Netherlands has operated a well-developed and sophisticated medical cannabis program since 2000. The Government recognises that in some instances the therapeutic benefits of cannabis outweigh potential harms, and therefore allows patients</p>

<sup>19</sup> Marijuana Policy Project, State-by-State Marijuana Laws 2013, <http://www.mpp.org/legislation/state-by-state-medical-marijuana-laws.html>

<sup>20</sup> National Conference of State Legislators, State medical marijuana laws, 20 June 2014, [www.ncsl.org](http://www.ncsl.org)

<sup>21</sup> Matthew Kintz, Smoke and Mirrors? Examining the Relationship Between Medical Cannabis Dispensaries and Crime, Institute of Governmental Studies, UC Berkeley, 2012

<sup>22</sup> National Conference of State Legislators, State medical marijuana laws, 20 June 2014, [www.ncsl.org](http://www.ncsl.org)

<sup>23</sup> NSW Legislative Council General Purpose Standing Committee No Report, 'The use of Cannabis for Medical Purposes', p16

	with chronic illnesses to access cannabis on prescription. The main feature of the Netherlands model is that the Government guarantees a safe and reliable source of high quality cannabis by regulating the growing of cannabis. The program is managed through the “Office of Medical Cannabis”, which contracts a single skilled cultivator to grow cannabis under highly controlled conditions to ensure it is of medical/pharmaceutical quality. The product is provided as medical cannabis to patients as well as provided for research and development. <sup>24</sup>
Israel	In 1995, Israel established a programme to regulate the access to medical cannabis, supervised by the Ministry of Health. The Government has approved seven growing centres. Patients can obtain medical cannabis from a central distribution centre. Permits to use medical cannabis are issued by the Ministry of Health who is authorised to issue permits for the use of medical cannabis (upon request from a senior physician). <sup>25</sup>
Czech Republic	Since 2013, medical use of cannabis has been permitted in the Czech Republic. Medical cannabis can be grown by registered commercial cultivators, is restricted to sale in pharmacies, and available on prescription only. Individual growing of cannabis for medical use by patients is not permitted. <sup>26</sup>

<sup>24</sup>Dutch Association for Legal Cannabis and its Constituents as Medicine, “The Dutch medical cannabis program” (<http://www.ncsm.nl/english/the-dutch-medical-cannabis-program>)

<sup>25</sup> Beau Kilmer, et al, Multinational overview of cannabis production regimes, RAND Corporation, 2013 ([http://www.rand.org/pubs/research\\_reports/RR510.html](http://www.rand.org/pubs/research_reports/RR510.html)); See also Israel Ministry of Health: [http://www.health.gov.il/English/Services/Citizen\\_Services/Pages/kanabis.aspx](http://www.health.gov.il/English/Services/Citizen_Services/Pages/kanabis.aspx)

<sup>26</sup> *Czech Republic: Law Legalizes the Use of Marijuana for Medical Purposes*, New York Times, 13 February 2013 ([http://www.nytimes.com/2013/02/16/world/europe/czech-republic-law-legalizes-the-use-of-marijuana-for-medical-purposes.html?ref=marijuana&\\_r=0](http://www.nytimes.com/2013/02/16/world/europe/czech-republic-law-legalizes-the-use-of-marijuana-for-medical-purposes.html?ref=marijuana&_r=0)); Medical Use of Cannabis in the Czech Republic ([http://www.drogy-info.cz/index.php/english/medical\\_use\\_of\\_cannabis\\_in\\_the\\_czech\\_republic](http://www.drogy-info.cz/index.php/english/medical_use_of_cannabis_in_the_czech_republic))