

The
Tribune
Ames, Iowa

Tues.
Oct. 21, 1997

EDITORIAL

MEDICAL MARIJUANA LAWS NEED TO BE FIXED

Marijuana as medicine presents a peculiar problem in Iowa. Some say it's OK. Some say it's bad. But this is not a debate between hippies and cops, parents and kids, good and evil. It's between state law and federal law.

The state says medical marijuana is OK. The feds say medical marijuana is bad.

Who's right? It isn't clear. But it is clear the conflict is causing problems. It is clear the law ought to be fixed.

Iowa law made medical marijuana legal in 1979, around the time when the federal government set up a program to provide the drug to qualified applicants with serious medical disorders.

Those few who remember Iowa's 1979 statehouse debate say the state law was passed in response to a perceived easing of marijuana regulations on the federal level. Eventually, 35 states passed similar medical marijuana laws. Some, like Iowa, went so far as to classify marijuana as a "Schedule II" drug when used for medical purposes. (The "Schedule" system is how the government classifies drugs. Schedule I drugs have no identifiable medical purposes, such as cocaine. Schedule II drugs have some medical purposes, but access is limited, such as codeine.)

The Iowa law has been in conflict with federal law, which classifies medical marijuana as Schedule I, for nearly as long as it's been around. But that mattered little until a few years ago because the federal research program provided a legal way for patients, Iowa patients included, to get access to marijuana.

That all changed in 1991, when the federal program, coordinated by the Drug Enforcement Agency, stopped accepting new applications.

Now, we've got a problem.

The feds stopped giving out medical marijuana except for a handful of people still exempt under the old program. State law still says Iowans have an access right to medical marijuana, but now there's no legal way for patients to get it.

The conflict isn't just a problem on paper. It really puts Iowa judges in a bind.

Consider a Black Hawk County case over the summer. Allen Helmers was arrested for violating his probation after he tested positive for marijuana. Helmers claimed he needed pot because of a rare medical condition that left him in chronic pain. His doctors, right or wrong, said smoking pot was indeed justified as a last attempt at treatment. But Helmers couldn't get a prescription because his doctors faced fines and even jail time, depending on the amount of pot involved, under federal law.

District Judge Jon Fister took a common-sense approach in his ruling. He said, Look here, folks: marijuana is legal in the Hawkeye State, but illegal in the United States. It can't work like that, so we need to fix the law. The judge left the record open, and Helmers got to stay out of jail — for now.

Judge Fister was exactly right. It does no good for a state law to contradict a federal law. And that should be fixed.

One of three things has to happen:

♦ Congress has to down-grade marijuana from Schedule I to Schedule II when it's used for medical purposes.

♦ Or the state legislature has to upgrade marijuana to Schedule I in all circumstances.

♦ Or the state Board of Pharmacy Examiners has to create a federally approved research program that would allow for the legal distribution of prescribed marijuana.

It's a tough choice. Each solution has problems.

The problem with Congress is that it isn't going to budge. Some Democrats would like to loosen marijuana restrictions, but the Republican leadership isn't about to let pass a measure that looks anything like it's going soft on drugs.

The problem with the state legislature bowing to federal law is that respected groups such as the American Medical Association and the National Institutes of Health say marijuana may indeed be a valid medicine. The pot lobbies claim marijuana relieves nausea, increases the appetite, reduces pressure in the eyes, tames muscle spasms and helps users cope with mild to moderate chronic pain. Even mainstream doctors say pot just may do all those things, though they would like to see more research.

The problem with the state Board of Pharmacy Examiners creating a research program (under the guise of research, even pot can find a legal home) is that it's incredibly hard to do legally. In fact, though 24 states have passed legislation creating state-run research programs, including Iowa, none are currently operating. Many programs ran out of money, others had trouble complying with strict federal guidelines and some states repealed the legislation.

Medical marijuana critics say there's fourth option, but that's a matter of debate. Doctors can prescribe a gel capsule called "marinol," which is billed as an acceptable substitute to smoking marijuana. Marinol is one of the active ingredients in marijuana. But each puff of pot contains more than 400 chemicals, only one of which is marinol. That means, not surprisingly, that marinol doesn't work for everybody. And though marinol is classified as Schedule II, the Drug Enforcement Agency has placed special restrictions on its availability. Consequently, it's very rare for a doctor to prescribe marinol.

There simply are no easy answers.

But because there will certainly be more judges like Judge Fister who are put in the awkward position of interpreting conflicting laws, both state and federal lawmakers are duty bound to take up the issue.

Lawmakers should put aside the politics and the emotions and deal with the issue.

They have three choices, all somewhat flawed. There are arguments in favor of each, though it's tough to argue against letting Iowans determine what is legal in Iowa.

Still, maybe some top federal officials — who have experience in this area — could forge a compromise.

Maybe they could say it's OK to use marijuana medicinally.

If you promise not to inhale.