

**MEDICAL SOCIETY**  
of the  
**STATE OF NEW YORK**

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**MEMORANDUM IN OPPOSITION**

**Passed Senate**

**S. 8987 (AMEDORE)**

**On Assembly Calendar**

**A. 11011-B (GOTTFRIED)**

**An Act to amend the public health law, in relation to allowing for the use of medical marijuana as an alternative to opioids for pain management**

This measure would allow physician to certify patients for medical marijuana as an alternative to prescribing opioids. The Medical Society of the State of New York is opposed to this measure.

In February 2015, during the regulatory process on medical marijuana, the Medical Society of the State of New York expressed concerns about adding medical conditions or clinically associated conditions to the list of those diseases whereby certification may be given. At that time, MSSNY stated that the list of clinical conditions should not be expanded until such time as the effectiveness of the medical use of marijuana by patients has been sufficiently studied. Since that time, the list of conditions has greatly expanded, and now includes chronic pain, for which there is limited evidence of effectiveness.

According to the Institute of Medicine report *“Relieving Pain in American: A Blueprint for Transforming Prevention, Care, Education and Research”*, 116 million adults experience chronic pain. It also noted that chronic pain is experienced individually and is more than just a physical symptom and is not always resolved by curing the underlying disease. The Centers for Disease Control and Prevention (CDC) recently developed and published the *“Guidelines for Prescribing Opioids for Chronic Pain”*. This guideline provides the prescriber with a series of recommendations for the prescribing of opioid pain medication for patients 18 and older in primary care settings. Recommendations focus on the use of opioids in treating chronic pain (pain lasting longer than three months or past the time of normal tissue healing). Also provided is guidance for determining when to initiate or continue opioids for chronic pain outside of active cancer treatment, palliative care, and end-of-life care; types of opioid selection, dosage, duration, follow-up, and discontinuation and also calls for assessing risk and addressing possible harms related to opioid medication use. The guidance also discusses having prescribers consider alternative treatments (**which does NOT include use of marijuana**) before initiating opioid therapy. There was significant discussion and revisions by the CDC working within the medical stakeholders before these guidelines came to fruition.

At this time, there are no established guidelines for treatment of acute pain. In addition, there is insufficient evidence to support the recommendation of marijuana as an alternative to opioid pain medications for chronic pain. Furthermore, there is insufficient evidence to support marijuana as an alternative to other treatments for acute pain, including in patients with opioid use disorder. MSSNY also believes that placing a patient on Medication Assisted Treatment (MAT) for opioid use disorder may be a more appropriate option for treating pain when an alternative opioid pain medication may not be appropriate for those patients that suffer from opioid use disorder.

There are still concerns within the medical community that marijuana can be a gateway drug to development of substance use disorders. As a result, there is concern that authorizing the use of medical marijuana for the treatment of pain, may be exchanging one type of addiction for another or combining opioid and marijuana use disorder in some patients, while still being insufficient for managing pain.

Of greatest concern is the changing federal landscape and risk of prosecution. The Medical Society notes that the United States Attorney General Jeff Sessions has rescinded the Obama Administration guidelines that had for all practical purposes allowed states to authorize the use of marijuana under state law without fear of federal prosecution. This action by AG Sessions may allow federal prosecutors to more aggressively enforce marijuana laws. It remains unclear how this action will impact states where marijuana is legal for medical purposes. An aggressive position taken by the AG could result in federal prosecution of any participants in medical marijuana programs such as patients, those who work at dispensaries, or physicians who certify patients to obtain medical marijuana.

The Medical Society of the State of New York has always expressed concerns about federal prosecution against a physician who certified a patient for the use of marijuana. Under the New York State statute establishing the marijuana program, the governor or the commissioner of health has the ability to suspend the program at any point. Aggressive federal action is one situation that could result in suspension of the program.

According to the Department of Health, New York State's marijuana program for medical use has over 1,400 providers that are approved to certify patients for marijuana and has 40,286 patients that use marijuana for medical conditions. With these changes on the federal level, MSSNY is concerned that physicians who certify patients for medical use of marijuana may be exposed to criminal or civil sanction by the federal government. Certainly, MSSNY is heartened by Governor Cuomo's efforts, along with other governors calling for the passage of the STATES Act which would restore the federal-state balance for codifying protections for those operating within the state law. Until such time as there is greater clarity as to the legality of medicinal use of marijuana, MSSNY encourages the state to make a commitment to defend and protect physicians by indemnification against any potential future criminal or civil action taken by the federal government.

For all the reasons cited above, the Medical Society of the State of New York urges that this bill be defeated.

Respectfully submitted,

Division of Governmental Affairs

PFC/oppose  
6/20/18