

Los Angeles County's Approach to MMD Regulation and Enforcement

CSAC Annual Conference

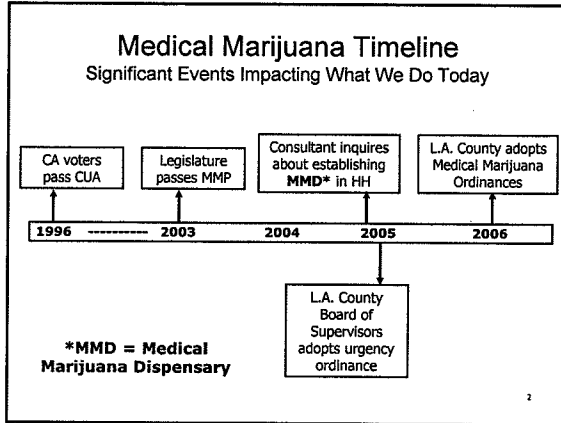
Medical Marijuana Workshop – November 17, 2010

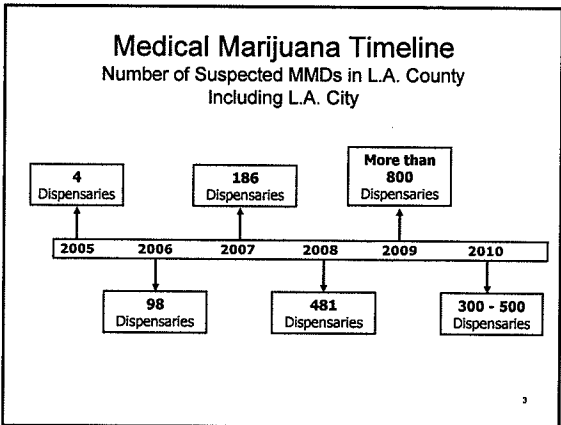
Counties and Medical Marijuana – A Roundtable Discussion

Los Angeles County's Approach to Medical Marijuana Regulation and Enforcement

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CSAC Annual Conference
November 16 - 19, 2010
Riverside, California





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L.A. County's MMD Ordinances

- MMD Zoning Ordinance
 - Adopted in April 2006 by Board of Supervisors
 - Ordinance 2006-0032 amended Title 22 to establish regulations and use and development standards for MMDs
- MMD Business License Ordinance
 - Adopted in May 2006 by Board of Supervisors
 - Ordinance 2006-0036 amended Title 7 to establish categories, processes and fees for MMDs and managers

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Zoning Code

- The zoning ordinance amendment adopted by the Board of Supervisors:
 - Added MMDs to the list of uses subject to permits (conditional use permit/variance) in selected zones
 - Added new regulations, and use and development standards for MMDs
 - Added the definition of medical marijuana dispensary to the L.A. County Code

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Business License Code

- The business license ordinance amendment adopted by the Board of Supervisors:
 - Established an MMD as an activity that requires a business license before operating
 - Established an MMD as a business which, if conducted without a business license, may be enjoined

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L.A. County's Definition of Medical Marijuana Dispensary

Medical marijuana dispensary is defined as any facility or location which distributes, transmits, gives, or otherwise provides medical marijuana to qualified patients or primary caregivers in accordance with California Health and Safety Code section 11362.5 through section 11362.83, inclusive, commonly referred to as the Compassionate Use Act of 1996 and the Medical Marijuana Program.

(LACC 22.08.130 M)

Enforcement of MMD Ordinances

- The County's MMD ordinances can be enforced:
 - Administratively
 - Criminally (misdemeanor), and/or
 - Civilly through an action in equity

Criminal vs. Civil Enforcement

Criminal prosecution targets the operators who are engaging in the illegal conduct

- Successful prosecution can result in the imposition of criminal fines, restitution, and incarceration
- However, an arrest, conviction, or incarceration does not necessarily stop the illegal activity – associates of the operator may continue the unlawful use or criminal enterprise

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Criminal vs. Civil Enforcement

Whereas, the civil enforcement of MMDs, which L.A. County regulates through land use and business license ordinances, enforces against both the business operators and the location where the illegal land use or unlawful activity is being conducted

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L.A. County's Response To Illegal Dispensaries

A Coordinated MMD Enforcement Team Response:

- Code Enforcement Departments
 - Department of Regional Planning ("DRP") – Zoning Violations
 - Department of Treasurer and Tax Collector ("TTC") – Business License Violations
- Law Enforcement
 - LASD Narcotics Bureau Marijuana Dispensary Task Force ("MDTF")
 - Sheriff's Community Oriented Policing Services ("COPS")
 - District Attorney Investigators ("DAIs")
- County Counsel Code Enforcement Unit

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Los Angeles County's MMD Enforcement Protocol

- County Counsel coordinates enforcement with the MDTF.
- If it is determined that the case warrants a criminal investigation, the case is investigated by MDTF.
- If code enforcement is assigned to take the lead or initiate enforcement, DRP and TTC coordinate an on-site inspection accompanied by either the DAIs or COPS.

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Civil Enforcement

- Injunctive relief, which is a civil remedy, is an enforcement tool with potentially broader application than the filing of a criminal complaint, and has proven effective in these kinds of cases
- An injunction can enjoin the owners and/or operators of the MMD business and shuts down their business operations, and can also enjoin the owners or those in control of the property where the illegal land use/activity is occurring so that the business cannot be carried on at that location

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Civil Enforcement

- County Counsel will initiate civil legal action if operation persists and will:
 - Seek a **preliminary injunction** to enjoin the MMD from operating until a trial can be held and a **permanent injunction** issued and/or
 - Seek a **temporary restraining order** to immediately shut down the MMD until a preliminary injunction can be obtained if a sufficient factual basis exists to warrant extraordinary remedy

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Civil Enforcement

- Since the adoption of the county's ordinance, our office has handled or been consulted on **30** MMD cases; of these **21** ceased operating following enforcement without an action having to be filed, civil actions were filed against **7**, and **2** are pending further investigation.

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