U.S. Department of Justice

United States Attorney
District of Arizona

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May 2, 2011

Will Humble
Director
Arizona Department of Health Services
150 N. 18th Avenue
Phoenix, Arizona 85007

Re: Arizona Medical Marijuana Program

Dear Mr. Humble:

I understand that on April 13, 2011, the Arizona Department of Health Services filed rules implementing the Arizona Medical Marijuana Act (AMMA), passed by Arizona voters on November 2, 2010. The Department of Health Services rules create a regulatory scheme for the distribution of marijuana for medical use, including a system for approving, renewing, and revoking registration for qualifying patients, care givers, nonprofit dispensaries, and dispensary agents. I am writing this letter in response to numerous inquiries and to ensure there is no confusion regarding the Department of Justice's view of such a regulatory scheme.

The Department has advised consistently that Congress has determined that marijuana is a controlled substance, placing it in Schedule I of the Controlled Substances Act (CSA). That means growing, distributing, and possessing marijuana in any capacity, other than as part of a federally authorized research program, is a violation of federal law regardless of state laws that purport to permit such activities. As has been the case for decades, the prosecution of individuals and organizations involved in the trade of illegal drugs and the disruption of illegal drug manufacturing and trafficking networks, is a core priority of the Department of Justice. The United States Attorney's Office for the District of Arizona ("the USAO") will continue to vigorously prosecute individuals and organizations that participate in unlawful manufacturing, distribution and marketing activity involving marijuana, even if such activities are permitted under state law.

An October, 2009, memorandum from then-Deputy Attorney General Ogden provided guidance that, in districts where a state had enacted medical marijuana programs, USAOs ought not focus their limited resources on those seriously ill individuals who use marijuana as part of a medically recommended treatment regimen and are in clear and unambiguous compliance with such state laws. And, as has been our policy, this USAO will continue to follow that guidance. The public should understand, however, that even clear and unambiguous compliance with AMMA does not render possession or distribution of marijuana lawful under federal statute.

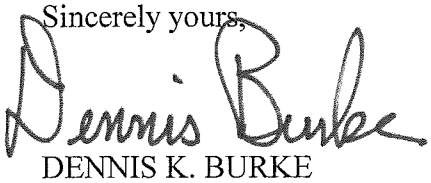
Moreover, the CSA may be vigorously enforced against those individuals and entities who operate large marijuana production facilities. Individuals and organizations – including property owners, landlords,

and financiers – that knowingly facilitate the actions of traffickers also should know that compliance with AMMA will not protect them from federal criminal prosecution, asset forfeiture and other civil penalties. This compliance with Arizona laws and regulations does not provide a safe harbor, nor immunity from federal prosecution.

The USAO also has received inquiries about our approach to AMMA in Indian Country, which comprises nearly one third of the land and five percent of the population of Arizona, and in which state law – including AMMA – is largely inapplicable. The USAO currently has exclusive felony jurisdiction over drug trafficking offenses in Indian Country. Individuals or organizations that grow, distribute or possess marijuana on federal or tribal lands will do so in violation of federal law, and may be subject to federal prosecution, no matter what the quantity of marijuana. The USAO will continue to evaluate marijuana prosecutions in Indian Country and on federal lands on a case-by-case basis. Individuals possessing or trafficking marijuana in Indian Country also may be subject to tribal penalties.

I hope that this letter assists the Department of Health Services and potential registrants in making informed choices regarding the possession, cultivation, manufacturing, and distribution of medical marijuana.

Sincerely yours,



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