

The Future of Medical Cannabis

By: Lorian Hardcastle

Legislation commented on: *Access to Cannabis for Medical Purposes Regulations*, [SOR/2016-230](#)

The recent decriminalization of recreational cannabis, which I explored in an earlier blog post, has led some to question whether Canada still requires a separate legislative scheme for medical cannabis users. On the one hand, some argue that health professionals should not spend their time writing prescriptions for something that can now be purchased in stores, particularly given the mixed evidence in support of medical cannabis. In stark contrast, others argue that a single regulatory regime would affect the rights of medical users and hinder their ability to access cannabis products.

Medical Cannabis in Canada

Canadians who currently wish to consume cannabis for medical purposes must first obtain what is referred to as a “medical document” from a health care professional (a physician or nurse practitioner). They may then purchase cannabis from a federally-licensed producer, register with Health Canada to produce a limited amount of cannabis for their own medical purposes, or designate someone to produce this supply for them.

According to [data from Health Canada](#), in June 2018 alone (the most recent month for which data is available), Canadians purchased 2,103 kilograms of dried cannabis and 4,124 kilograms of cannabis oil for medical purposes, licensed producers made 135,062 cannabis shipments to Canadians, and 3,836 health care practitioners provided medical documents for patients registered with licensed producers. As of the end of June 2018, there were 21,521 active Canadian users registered with a licensed producer, 20,346 users who produced their own cannabis for medical purposes, and 1,195 who had designated someone else to produce it for them.

At this time, Health Canada has decided to retain this separate medical cannabis regime. In other words, while medical users can continue to purchase cannabis in the same manner as they had prior to decriminalization of recreational cannabis, they can also forego the need to obtain medical documentation and purchase these products from provincial or territorial retail outlets.

The Role of Health Professionals in Medical Cannabis

Perhaps the loudest and most prominent opponent to retaining the dual recreational and medical cannabis regimes is the Canadian Medical Association (CMA). It has [recommended](#) phasing out

the medical cannabis regulations, noting that there is “no need for two systems” as cannabis “will be available for those who wish to use it for medicinal purposes, either with or without medical authorization, and for those who wish to use it for other purposes.”

The CMA’s [position](#) is that they are concerned “about the lack of clinical research, guidance and regulatory oversight for cannabis as a potential medical intervention.” Furthermore, they note that many physicians are uncomfortable “prescribing a substance that hasn’t undergone the same regulatory review processes required for all other prescription medicines”, which result in comprehensive information for prescribers relating to clinical indications, dosages, and potential interactions with other medications. One [St. Albert doctor](#) controversially went so far as to say “I can’t prescribe alcohol, I can’t prescribe trips to Hawaii, and so I don’t prescribe marijuana... [I’m] not saying it doesn’t make people feel better, but it’s not a medication.”

There is support for the CMA’s position that there is a lack of high-quality evidence respecting the medical efficacy of cannabis. For example, a [recent guideline](#) published in *Canadian Family Physician*, a peer-reviewed medical journal, involved a detailed systematic review of the evidence on medical cannabis use. The authors recommended limiting medical cannabis due to a concern with a lack of evidence, apart from a small subset of medical conditions: neuropathic pain, palliative and end-of-life pain, chemotherapy-induced nausea and vomiting, and spasticity due to multiple sclerosis or spinal cord injury. A [recent review](#) of the medical cannabis literature by University of Calgary researchers concluded that “there is only low to moderate quality evidence to suggest that cannabis is an effective treatment for most medical conditions.”

In response to the CMA’s position, it could be argued that a lack of high-quality evidence on medical cannabis supports more involvement by health professionals rather than less, in order to ensure that patients are properly informed of these evidentiary limits and that they are using cannabis appropriately. Divorcing themselves from informing patients about a product with potentially significant health implications is arguably an abdication of their responsibilities. In this regard, the [College of Physicians and Surgeons of Alberta](#) has stated that physician responsibilities include, “providing objective, evidence-based information to patients seeking medical cannabis to support informed decision-making.” If patients self-prescribe cannabis for their medical conditions and purchase it from recreational retail outlets, they will not receive potentially important information about its efficacy for their particular conditions, alternative medical treatments, or potential medication interactions.

In contrast to their physician counterparts, the Canadian Nurses Association [has said](#) that it is in favour of retaining a separate system for medical cannabis, worrying that a single recreational legislative scheme may result in patients not talking with health care providers about cannabis use.

The Concerns of Medical Users

Medical cannabis users and advocacy groups [argue](#) in favour of retaining a separate legal regime for a variety of reasons. Some fear that producers may be encouraged to focus their efforts on more economically viable recreational products over the existing medical products that users

have come to depend upon. Other users argue that patients may not feel confident talking with health professionals if cannabis is perceived as a recreational rather than medical product. In an [article](#) in the *Canadian Medical Association Journal*, Cairns and Kelly argue that “having only one stream continues to fuel the stigma surrounding cannabinoid-based therapeutics and delegitimizes patients who state that they use these drugs out of necessity rather than choice.” Many medical users struggle with the cost of cannabis, due to a lack of insurance coverage. Although an increasing number of insurers are [covering medical cannabis](#) for certain conditions, progress could be halted with the abolition of the medical cannabis regulatory scheme.

Creating a single recreational cannabis regime may also raise human rights concerns. Provincial laws protect those who use cannabis for medical purposes related to a disability from discrimination in the context of employment, housing, and other areas. For example, a landlord has a duty to accommodate the consumption of medical cannabis by a tenant up to the point of undue hardship. If existing regulations are abolished and doctors no longer provide medical documentation to patients who use cannabis for their health conditions, these patients may have difficulty establishing their disability-based claims for accommodation.

Health Canada’s Approach

Health Canada has stated that it plans to review whether there is an ongoing need for separate sets of medical and recreational cannabis regulations within five years. In the meantime, policy-makers have taken several steps to improve the evidentiary basis for medical cannabis, which will enable them to make a more informed decision about whether to keep the medical regulations. For example, the Canadian Institutes of Health Research have [earmarked specific funds](#) for cannabis research in urgent priority areas. The *Cannabis Regulations*, [SOR/20180-144](#), which recently came into force, were designed to encourage research by including a specific category of license for those seeking to conduct research on cannabis (in addition to those licenses relating to cultivation, production, etc.). However, research on cannabis can be challenging. Compared to pharmaceuticals, which are synthetically manufactured in near-identical conditions in factories, the composition of even genetically-identical cannabis plants can vary due to environmental differences in soil and lighting, resulting in study design challenges.

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