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## News

### Local man's case raises questions about medical cannabis law

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As the New Mexico Department of Health scrambles to provide enough medical marijuana to meet the demand of its nearly 800 cannabis patients statewide, some of those patients are getting acquainted with the supposed limitations of the law firsthand.

Taos resident and qualified, card-carrying medical cannabis patient Tumi Madappa, 29, is now involved in a legal battle to defend his right to use his prescription. Madappa's attorney Kimberly Alderman says Madappa suffers from post-traumatic stress disorder from a past trauma Madappa did not want to address.

"It's not like he's being lawless," Alderman said of her client. "He's just taking his prescription."

To overcome the nightmares and insomnia that plague her client, she says Madappa sees a therapist regularly and smokes medical marijuana to sleep. Posttraumatic stress disorder is one of 15 conditions the state Department of Health has approved to treat with medical cannabis.

The problem, Alderman says, is that the Second Judicial District Court in Albuquerque ruled Nov. 13 that Madappa may only get his cannabis from a dispensary and he must get documented confirmation of how much, when and where he got it. Madappa, who is on probation for an unrelated offense, tested positive for THC in a urine analysis and Alderman said Madappa's probation officer decided to try and arrest him.

"This is completely absurd," Alderman said of the order. "If the court rules to make it a condition of his probation then that's a violation of his constitutional right to access medical care."

And because dispensary locations are supposed to remain confidential to the general public for safety reasons, Alderman says she's not sure it would be prudent to provide Madappa with documentation to appease his probation officer.

Since the passage of the Lynn and Erin Compassionate Use Act in April 2007, the state Department of Health has set up only one cannabis dispensary for its 755 qualified patients. While the department declined to comment on this matter as "pending litigation," it said in a press release dated Nov. 9 that four more dispensaries would be established to meet demand.

Those dispensaries will take at least three months to produce a crop. Under the department's conditions, a dispensary is limited to 95 mature plants and seedlings, which the department admitted is only enough to accommodate about 100 patients at a maximum of six ounces of cannabis for three months.

The probation officer's reasoning, which was upheld by state attorney Michael Cox, was that when Madappa got his cannabis card at the beginning of October and filled his prescription, the single cannabis dispensary in Santa Fe was out of product and had been since August. Therefore, the officer reasoned, Madappa broke the law when he got his cannabis from someone not qualified.

According to the language of the law, a qualified patient "shall not be subject to arrest, prosecution or penalty in any manner for the possession or medical use of cannabis."

From there, the argument has boiled down to an interpretation of what the law doesn't say. Cox argues that the law doesn't state it's OK for patients to get their cannabis from just anywhere.

"I just don't think the law says that," Cox said in a phone interview, declining to comment further.

Alderman argues that the law doesn't say patients have to get their cannabis from dispensaries either and until case law is made to specify, the courts shouldn't limit her client's ability to fill his prescription.

"There just is no requirement in the law for a patient's source of medical cannabis," Alderman said. "I cited a California case that ruled you cannot put a condition of probation that impedes access to medical marijuana unless a past offense is drug-related."

If Alderman and Madappa pursue the case and appeal the order, the case will go to the court of appeals, which will make case law based on the circumstances. Alderman says she has not yet decided when she will file for appeal. The issue raised the emotions of many medical cannabis activists at the International Drug Policy Reform Conference in Albuquerque last week.

One speaker was medical cannabis expert Steve DeAngelo, who has been using cannabis medically for years and runs Harborside Medical Center in Oakland, Calif. Harborside is California's largest cannabis dispensary and boasts 30,000 patients and more than two million plants in accordance with California law. It is regarded as one of the most successful and respectable cannabis dispensaries in the country.

"I think this case is an outrage and a violation of justice," DeAngelo said. "Do we really want someone who is suffering from PTSD walking around unmedicated? Would he be denied his medication if he were being treated for ADHD? Probably not."

DeAngelo says that the misconceptions about cannabis as treatment still have to be overcome even though he argues it's safer than most over the counter drugs.

"More people die from an overdose of aspirin than have ever died from cannabis," DeAngelo said.

The problem, he says, is not people like Madappa getting their prescription other places besides dispensaries, but the limitations of the program.

"New Mexico is compromised by the 95 plant limit," DeAngelo said. "It limits the supply and forces people into dealing."

Until something changes, Alderman is hoping she and her client will be able to fill his prescription without hitting the supply limit or, worse, not being able to dose.

"Tumi is a full-time student. Here's an example of someone who's trying to turn their life around," Alderman said. "He's trying to deal with legitimate issues in a legitimate way. They should let him do that."

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