May 7, 2021

Joanne Garrah, Director General
Licensing and Medical Access Directorate
Health Canada
VIA EMAIL: cannabis.consultations@canada.ca

On behalf of the craft cannabis farmers, processors, independent retailers and consumers represented by the BC Craft Farmers Co-Op (BCCFC), I am writing in response to the draft *Guidance on Personal Production of Cannabis for Medical Purposes* Health Canada released March 8, 2021.

In response to your request for feedback, we are pleased to provide some informed, alternative guidance in the attached overview from the country's experts in medical cannabis production.

BCCFC is also honoured to include a brief prepared by one of our founding members, Mr. John Conroy, Q.C. We support Mr. Conroy's conclusions and suggestions and recommend the Minister engage his expertise. We encourage you to review these documents closely and contact me if you have any questions.

Yours truly,

Bob Davidson, President
BC Craft Farmers Co-Op
president@bccraftfarmerscoop.com

Response to Health Canada Request:
Draft *Guidance on Personal Production of Cannabis for Medical Purposes*

May 2021

Table of Contents

- Introduction
- Background
- Synopsis and Recommendations
- Alternative Guidance: Public Health
- Alternative Guidance: Public Safety
- Conclusion
- Appendix A: Conroy Brief

INTRODUCTION

On March 8, 2021, Health Canada released guidance regarding the *Personal Production of Cannabis for Medical Purposes*. At the same time, they invited stakeholders to provide feedback by May 7, 2021.

With the invitation, Health Canada described the process as follows:

> *This document provides guidance regarding the access to cannabis for medical purposes program, and brings information together into one document, to support applicants and registrants, and promote understanding of the program requirements among other stakeholders, including authorizing health care practitioners.*
>
> *This document also sets out, for the first time, proposed factors that Health Canada may consider in making decisions to refuse or revoke a registration on public health and public safety grounds.*
>
> *The publication of the draft Guidance document is intended to support transparency and openness on the use of authorities to refuse or revoke a personal registration on public health and safety grounds, and strengthen the integrity of Canada's access to cannabis for medical purposes framework, while also supporting collective efforts to address potential misuse.*

In response to Health Canada's request, the BC Craft Farmers Co-Op (BCCFC) has prepared recommendations and alternative guidance to consider.

BCCFC was established in 2020 to help BC's legendary small farmers transition to the legal market, maintain BC's position as an international cannabis leader and ensure consumers (medical and recreation) have access to the best cannabis products.

Attached to this submission, as **Appendix A**, BCCFC is honoured to include a brief prepared by one of our founding members, Mr. John Conroy, Q.C.

Contact:
BC Craft Farmers Co-Op
www.bccraftfarmerscoop.com
info@bccraftfarmerscoop.com

BACKGROUND

In 2001, after using the Ministerial exemption provision in section 56 of the Controlled Drugs and Substances Act (CDSA), Canada created the Medical Marihuana Access Regulations (MMAR) to provide patients legal access to their product by growing it themselves or receiving it from a designated producer.

This historic policy was the result of significant advocacy from BC compassion clubs, farmers, patients, lawyers and elected officials.

After a change of government in 2005, Canada introduced the Marihuana Medical Purposes Regulations (MMPR) which attempted to remove personal and designated production classifications in favour of more large producers.

This led to a federal court challenge that temporarily grandfathered MMAR patients and previously approved permit-holders by interim-injunction on March 21, 2014 pending trial.

On February 24, 2016, the Federal Court of Canada ruled the licenses of medically approved patients with a valid authorization to possess as of March 21, 2014, and valid personal production or designated production license on September 30, 2013, under the MMAR pursuant to the CDSA, would remain valid under the final decision in Allard v. Canada 2016 — despite the repeal of the MMAR. The injunction remains in effect.

On August 24, 2016, the federal government introduced a new medical cannabis regime with the Access to Cannabis for Medical Purposes Regulations (ACMPR) under the CDSA that on October 17, 2018 became Part 14 of the *Cannabis Act* regulations.

Those grandfathered by Allard can transition into a registration under the ACMPR Part 14 of the Cannabis Act regulations. They are encouraged to. While their MMAR certificate remains valid until the court Orders otherwise, those farmers who transition will not only hold a current ACMPR registration permit to facilitate proof of being legal under the *Cannabis Act* but are also eligible to apply for, and be governed by, any Ministerial exemption under the Act that are not available to modify an MMAR permit.

A similar process to the MMAR and ACMPR is continued under the ACMPR that now forms Part 14 of the *Cannabis Act* regulations that received Royal Assent in June 2018.

Under these regulations, medical producers, whether personal or designated grower, are required to comply with local by-laws (such as those related to fire and electrical safety, water contamination, odor, light, etc.) and must not cause a nuisance to their neighbours. They are also required to destroy any excess product and prohibited from selling any extra cannabis into the legal market.

SYNOPSIS and RECOMMENDATIONS

As of September 2020, approximately 43,000 Canadians are registered with Health Canada to produce cannabis for themselves or to have someone produce it on their behalf.

While BCCFC shares Health Canada's preoccupation with the health and safety of Canadians, to the best of our knowledge, no patient or member of the general public has suffered an illness or disease from the medicinal cannabis they have produced or received through this process over the last 20 years. To the contrary, the vast majority report improvements to their health, safety and quality of life.

Based on our review, it appears the government's goals are to find more transparent ways to refuse or revoke the medical registration of patients and their designated growers. Without any substantial facts or context, the draft guidance chooses to highlight "potential misuse", "concerning trends" and "weapon seizures".

Instead of recognizing the hundreds of thousands of Canadians whose quality of life has benefited from the personal production of medical cannabis over the last three decades, we are concerned and disappointed that the document presents and unfair, one-sided impression of small medical cannabis farmers and the program in general.

Certainly, in the middle of the worst global pandemic of our life-time, we believe Health Canada might have better things to do than devise new ways to discourage small cannabis farmers.

Further restricting medical cannabis access in the name of public health and safety sounds like a leftover from a long-lost war on drugs that only serves to perpetuate destructive stigma, restrict patient choice and protect the market share for large corporations run from the United States.

The reality is many of the 40,000+ personal producers approved by Health Canada have been farming since 2001. They have renewed licenses regularly. By their demonstrated compliance over this period, BCCFC believes they should be spared from any more restrictive requirements.

If citizens violate laws, that should be a matter for the justice system to resolve, just as it would in the case of any other professional association, trade or class of citizens.

Recommendation	Health Canada respect previous federal Court Rulings, refrain from interfering in doctor/patient discussions and embrace the potential of Canada's small cannabis farmers.
Recommendation	Minister of Health replace the draft guidance proposed on March 8, 2021 with the alternative guidance described in the following sections to promote public health and safety.

ALTERNATIVE GUIDANCE: Public Health

The history of cannabis production in British Columbia is rooted in compassion, medical access and quality of life. Building on this tradition and BC's international reputation for drug policy innovation and health research excellence, BCCFC is providing alternative guidance related to population health, research, cannabis testing and non-smokable products.

TOPIC	GUIDANCE
Population Heath	Collaborate with provincial and local health authorities to expand access to cannabis substitution treatment as a solution to the overdose crisis.
Population Health	Work with provinces and insurers to enable health care professionals to prescribe cannabis to Canadians suffering from chronic pain under their medical service plans and work place benefits.
Research	Collaborate with Canada's globally recognized universities to establish an international research centre that can address public questions about the health impacts of cannabis use, particularly related to: • genomic analysis of unique strains and their health effects • population health impact on different groups • health impact of delivery vectors • impact of terroir on terpene and cannabinoid development • harm reduction • inebriation detection
Research	Allow cannabis research and testing activities under all licensing categories.
Research	Limit current restrictions that discourage citizen participation in non-therapeutic research.
Research	Limit current restrictions on types of cannabis used, dosage, frequency and duration of non-therapeutic research.
Research	Allow for ongoing research licenses that are not project restricted.
Non-Smokable Products	Increase mg limit on edible products (est. up to 100mg/package) and extract products.
Non-Smokable Products	Allow for the sale of multi-packs of discrete units.
Product Testing	Adopt effective product testing standards that do not require mass-irradiation of cannabis.
Product Testing	Develop a unique, certified organic, living-soil licensing stream for small cannabis farmers.
Product Testing	Collaborate with Agriculture Canada and Environment Canada to implement BC regenerative and other cannabis farming innovations.
Product Testing	Expand production and distribution of cannabis test kits.

ALTERNATIVE GUIDANCE: Public Safety

Ironically, as Health Canada uses public safety as an excuse to restrict medical access, their approach to personal and micro-cannabis licensing is fuelling Canada's unsafe, illicit market.

Over half of BC consumers still obtain cannabis from the illicit market. Almost three years into legalization, consumers remain unable to purchase local craft cannabis in legal stores because barely 40 BC farmers have been licenced by Health Canada. Thousands are needed!

While some restrictive regulations may have been prudent at the start of legalization, they no longer serve the public interest. Not only is this approach fuelling the illicit market and keeping BC's craft cannabis sector from achieving its full potential, they perpetuate unhealthy stigma for this class of small business people and family farms.

To promote public safety and undermine the illicit market benefiting from the government's current cannabis policy approach, Health Canada should incentivize these expert and compliant medical cannabis farmers to also participate in the new legal market.

Recommendation

As a more effective and strategic path to limiting the illicit market promoting public safety, the Minister of Health should rapidly exercise her authority to establish a temporary (one-year) "craft class" of persons that includes Part 14 *Cannabis Act* ACMPR patients, citizens transitioned from the MMAR and the previous ACMPR who can produce cannabis for medical purposes.

The 12-month Order will enable this designated "craft class" to increase capacity in line with current micro-production caps (2,100 sq. ft.) and deliver excess product from their existing licence to registered medical patients or provincial retail markets subject to local government support, by-law compliance, existing security requirements, product tracking, packaging, labelling and safety testing. Specifically, this temporary craft class should be exempt from:

- having to destroy excess product as in current regulations
- being able to donate, sell, and process that excess as a special class of micro producer/processors under current regulations to the medical or recreation marketplace
- security clearance requirements in the current regulations because applicants have already gone through criminal record/intelligence checks and have a track record of good standing
- exempting applicants from the costly vault requirement and similar existing barriers that present minimal public risk and align with other regulated sectors

A micro-cannabis policy re-set was required at Health Canada before the pandemic. Today's economic crisis makes this more urgent. Transitioning thousands of craft farmers to the legal market over the next two years will deliver hundreds of millions of dollars to all levels of government. This new craft cannabis revenues can facilitate strategic investments to truly improve our public health, community safety and quality of life.

CONCLUSION

BCCFC is confident our recommendations, alternative guidance and Mr. Conroy's submission (**Appendix A**) will do more to protect public health and combat the illicit market than Health Canada's current cannabis policy approach.

Cannabis and its "public health and safety risks" have been investigated by more commissions and equivalent inquiries than almost any plant or drug. The risks to one's health, or to that of others from the consumption of alcohol and tobacco in comparison to cannabis, that has no lethal dose, is well-documented. Yet the regulatory burden, stigma and legal penalties for cannabis remain far more punitive.

Health Canada's March 8, 2021 draft guidance proposal is just the latest example.

BCCFC hopes Health Canada will accept our alternative guidance and the Government of Canada will respond to our sincere offer to collaborate, improve the current policy approach and achieve our shared public interest goals.

<u>Recommendation</u>

To end cannabis stigma and help eliminate suspicion about an entire class of well-meaning, local farmers, Health Canada should adopt this guidance and establish a dedicated Task Force of experienced farmers, sector leaders and other government agencies to foster innovation, build sector capacity and respond to the economic crisis. This scope can include:

- fully transitioning medical farmers to the recreation marketplace
- establishing micro-class license targets to measure success
- increasing participation of women and Indigenous farmers/processors
- adjusting restrictive micro-production caps
- developing local government incentives
- correcting uneven access to capital, insurance and financial services
- creating a community of practice that establishes detailed templates and easy-to-use applications for craft farmers, processors and nurseries
- updating inclusion criteria for federal agriculture, environment, small-business and regional economic development programs to include craft cannabis farmers and processors

APPENDIX A

Health Canada Draft Guidance on Personal Production of Cannabis for Medical Purposes
Consultation deadline May 7th, 2021
Submission by John W Conroy QC

ATTACHED

JOHN W. CONROY, Q.C.*

2459 Pauline Street
Abbotsford, BC V2S 3S1

CONROY & COMPANY

Barrister and Solicitor

Telephone: (604) 852-5110
Facsimile: (604) 859-3361
Email: dlukiv@johnconroy.com

Health Canada Draft Guidance on Personal Production of Cannabis for Medical Purposes Consultation deadline May 7th, 2021

Submission by John W Conroy QC

May 7, 2021

While it may be understandable that Health Canada would issue this document to provide guidance to applicants and others with respect to this issue given reported abuses, however, it is respectfully submitted that Health Canada is continuing to adopt or take a wrong approach to this matter or issue by resorting to a continued prohibitionist policy and the use of the criminal law resulting in the "pushing out" of the "legacy or craft market", to compete with the new licit market instead of "rolling them all in", subject to appropriate conditions if necessary, depending upon individual circumstances, on a case by case basis.

It is submitted that a better transitional approach is to bring everybody into the market with full disclosure of their past and with appropriate conditions and licensing and with resort to the civil process when required to resolve disputes and to regulate all participants.

A carrot instead of a big stick approach.

It should be remembered that the Government of Canada was compelled through the independent courts (from Parker to Allard)to ensure and provide "reasonable access to medically approved patients" to cannabis as their medicine, to prevent the violation of their constitutional right under s. 7 of the Canadian Charter of Rights and Freedoms to the "security of their persons" and "the right not to be deprived thereof except in accordance with principles of fundamental justice" and, as further established in the courts, this includes a limitation on government attempts at unreasonable limitations to such access in an 'arbitrary', 'overbroad' or 'manner that results in grossly disproportionate consequences' that is inconsistent with the purpose of the legislation, namely not only protection of public health but 'reasonable access' by individual patients to medicine recommended by their health care practitioners for their health.

We are dealing here with a "right of reasonable access" to approved medicine not simply an application for a "privilege".

It should be recalled that once the Government was compelled to provide this reasonable access, after an initial use of the CDSA exemption powers, it declined to provide a supply requiring patients to learn to produce for themselves or have

somebody designated to do so for them and encouraged patients to access seeds or starter plants via existing Compassion Clubs.

Representations were made to Government to enable persons to grow for many patients instead of just for themselves or enabling a Caregiver Designated Grower to grow for many, like those growing for a Compassion Club and its 10,000 members but the Government resisted this approach and those submissions and ultimately, after much further litigation, a personal producer was allowed to grow for themselves and one more person an a Designated Grower for up to two people but there cannot be more than four permits at one location.

In the result, as predicted, a large number of cannabis production facilities (Grow Ops) started up in residences and other situations as patients learned to grow for themselves and others or having designated growers grow for them and others.

Inevitably these individuals learned how to produce quality product for themselves or their appreciative non-complaining patients without any significant risk to public safety or health nor any negative consequences to their patients, even without any required testing. However, the smell or odor complaints in particular from neighbors led to the significant engagement of Local Government inspectors and the development of local bylaws.

Overtime many learned how to produce without causing a nuisance to others, and eventually, due to legalization, they learned to obtain building and electrical and other permits to ensure that their production was safe and not causing a nuisance to others, much to the appreciation of local inspectors.

This government policy however led to a plethora of small or home - based production that was accepted by the Court in the Allard case as one of the means of ‘reasonable access’ that could not be unreasonably limited or taken away without impacting and potentially violating constitutional rights and that government licensed production in and of itself would not suffice to meet this obligation.

The government did not appeal either the Parker case nor the Allard case to higher courts and any unreasonable limitation on the right of reasonable access by a medically approved patient risks the violation of the patients’ constitutional rights as determined by these cases.

In addition it must be remembered that while the Government was then forced again by litigation to come up with a supply through a license producer(Prairie Plant Systems) and ultimately failed in its attempt to eliminate individual or designated grower production in favor of licensed producers only, the initial scheme under the Cannabis Act only provided for ‘standard license producers’ and the cost to obtain such and other limitations, such as ‘Security Clearances’, on those previously involved in the legacy or craft or medical MMAR market were insurmountable, leading later to the provision of the “micro” license regime, and while some improvement ,it has also proved problematic in similar respects for Craft/legacy participants.

Hence the creation of the BC Craft Farmers Co-op (see www.bccraftfarmerscoop.com and it's Pilot Project recommendations as a means of transitioning these people into the licit market, by allowing registered members to donate instead of destroy their excess product, to non-profits like the Cannabis Substitution program that is helping fight the opiate crisis in the Downtown Eastside (https://www.facebook.com/groups/788587877977376/) or BC Compassion Club Society (www.bcccs.org) that has been servicing over 10,000 patient members over the last 20 plus years and enabling those who wish to do so to sell their excess product into the new legal market as 'Micro Craft' specialty product as a means of helping to minimize and reduce the cost of production for the patients and enabling the general public to benefit from the Craft experience and specialty products, acquired over the last 20 plus years.

The Draft Guidance document appears to take the traditional prohibitionist approach to prevent abuses that have and are undoubtedly occurring. This involves using law enforcement and the courts at various levels and thus brings into play other constitutional rights under the Charter as well as the use of the criminal law and all of its complications and limitations.

It appears to treat applications to personally produce or to be a designated to producer for a medically approved patient to be akin to obtaining a "security clearance" under the Cannabis Act as required for various positions if involved with a commercial licensed producer, something that has been described as a 'privilege' to obtain compared to the right of 'reasonable access' to ones medicine by an approved patient although Health Canada's processing of those applications can also impact or involve constitutional rights such as "freedom of association' among possible others, such as "the duty to act fairly" in a procedural and substantive sense when considering and acting in an administrative capacity under legislation impacting a persons' rights, privileges or interests.

The Guidance document sets out at page 13 the "**Circumstances in which a registration may be refused or revoked on public health and public safety grounds**" and refers specifically to **s. 317 (2)** that enables the Minister to refuse to register an applicant or to renew or amend a registration if (in the opinion of the minister) that person is **likely to create** a *risk to public health or public safety including the risk of cannabis being diverted to an illicit market or activity* and **s.318 (3)**that enables the Minister to revoke a registration, if he or she, has **"reasonable grounds to believe**" that the revocation is *necessary to protect public health or public safety including to prevent cannabis from being diverted to an illicit market or activity .*

Similarly, the provisions with respect to obtaining a "security clearance" are set out in **sections 53 through 61** of the Cannabis regulations and section **53(1)** requires the Minister, *taking into account any license conditions that he or she imposes under subsection **62 (1**), to determine that the applicant does not pose an unacceptable risk to public health or public safety, including the risk of cannabis being diverted to an illicit market or activity.*

If Health Canada takes the same approach with ‘applications for personal production’ or to be a ‘designated grower’ or their renewal or revocation, as it does for ‘security clearances' applying the same test in the legislation for both, you can expect some similar consequences as per the following actual ‘security clearance’ application decisions under the Cannabis Act so far and some pending applications examples without the names of the Applicants.

It should be noted that the process involves Health Canada asking a police agency for a Law Enforcement Record Check (LERC) that contains the following limitation as to its veracity and credibility:

“The identities of the individuals referenced in police reports mentioned below were not necessarily confirmed via fingerprints. RCMP and police agencies involved in these occurrences cannot confirm the accuracy of the identity or information contained in these reports.”

1. In **Lum v Canada 2020 FC 797** FCTD The Federal Court set aside the Directors decision to deny a ‘security clearance’ due to a lack of analysis or reasons to enable the Court to understand why the risk engaged a threat to public Health or Safety including diversion and sent the matter back for reconsideration. The Applicant had no criminal record but the LERC (Law Enforcement Record Check) disclosed that his name came up in a 2015 money laundering drug trafficking investigation as the Director of a company in which his Co-director was “Subject A” who in turn was the spouse of “Subject B” a known Asian Organized crime figure over 20 years with several convictions. There was no evidence the Mr. Lum knew this background and he provided sworn evidence to this effect in the court proceedings. Health Canada does not provide the actual names taking the position that they are protected by privacy legislation and not supplied by the LERC.

2. In **Wojcik v Canada 2020 FC 958**, which is on appeal to the Federal Court of Appeal, the FCTD upheld the denial of a security clearance in circumstances where the Applicant who was a DG was stopped twice by the police with Subject A, also a DG, and was driving his vehicle and there was cannabis in the vehicle. They said they were taking it to the dump and were allowed to go on their way. However, it is said that the applicant was “associating with Subject A” a known drug trafficker associated to an organized crime group and they said he resided with the applicant for a period of time, which was disputed by the applicant and his spouse in the sworn evidence in the court proceedings. Presumably subject A did not have an actual criminal record within the last ten years or he would have not been able to get a DG and you would think that the applicant could rely upon that DG status. Also, the Applicant apparently, on one occasion, at the request of his MMAR patient, sent his medicine to the patient while he was on holidays at a friend’s place, to the friend’s place with the consent of that friend instead of to the patient’s home address, in technical violation of the MMAR. The court held that the procedural

fairness requirements are minimal when a privilege is involved as opposed to a ‘right’.

3. The case of DB, who had been for some time involved in assisting the construction of production facilities legally both in Canada and the US , has been pending with Health Canada for several years and the LERC events that led to them to indicate they were going to deny him included that he was with a group of male friends around a car at Kits beach 10 years ago and somebody complained about the smell of cannabis and the police attended and told them to move along without any charges but took enough information down to record the events. Also, he apparently had the phone number in his contacts of a person of concern that was somebody involved in the industry. More than two years have passed, and he still awaits a decision.

4. The case of MD involves a LERC that says that “investigative reporting” says that he is “associated to the Hells Angels”. In his response he told them that the only time he has had any connection with the Hell's Angels was when a garage customer told him about some races nearby his garage and when he went to check them out the police were questioning people if they were members and he told them he was not. He didn't mention that he therefore didn't attend the races and Health Canada used that against him even though they apparently have no other events indicating an ‘association’ just ‘investigative reporting’ whatever that means. This was taken to Federal Court and the government, on the eve of the hearing, said they would reconsider but then went back and several months later made the exact same decision and consequently all of the materials filed in Court including the sworn affidavits have been sent back to Health Canada while they reconsider the matter again.

5. In the case of NS, while he has no criminal record, the LERC goes back some 16 years alleging numerous various associations with Hells Angels and other members of criminal organizations, with the last one alleged some six years ago. The events include unnamed Subjects ranging from A to R and start with frequenting a Bar with friends and being seen in the company of some Hells Angels and being offered drinks in a roped off area by them some 13 and 16 years ago and going to a Casino with a person closely associated with Persian Organized Crime, as well as being identified by the police while sitting at a table with a large group of people and several had been previously charged with drug offences. While this case involves other matters, a significant part of concern are his ‘associations’ over time with these unnamed members of “criminal organizations” that he says were simply people he grew up and went to school with and it is not alleged that he was involved in any of their criminal activity as a ‘member’ or ‘associate’ in any formal sense.

It should perhaps be noted that the Canadian Charter of Rights and Freedoms, that forms part of our Constitution, guarantees ‘everyone’ in s.2(d) the right to “freedom of

association" subject to s.1 'reasonable limits prescribed by law' such as being involved in a "criminal organization" for example.

If it is not asserted that the applicant was so criminally involved but simply that he knew people who had been and/or were so allegedly involved generally but with no specifics and certainly none involving the applicant directly or indirectly in any way or even that he knew or ought to have known all or partially about each of them and their backgrounds, why is this form of association with them, despite a constitutional right to do so, prejudicial to him, without more.

Again, despite that exercise of such guaranteed freedom of association and the risk that may have presented at the time, there is no suggestion of any circumstances that the applicant became involved to any extent and in any way with any of them in any criminal activity during that lengthy period and he has not had any association with any of them, except again perhaps any relatives, for at least the last 6 years and much longer in relation to some of them.

The innocent nature of these past associations with no criminal involvement is an indication of lack of risk despite these associations.

As the regulations and the Guidance document point out, to be eligible to grow for oneself, there must be no conviction for a cannabis related offence within the last 10 years while they were authorized to produce cannabis for medical purposes.

An approved medical patients' criminal history or past associations are otherwise irrelevant to such eligibility unless committed while so authorized thus abusing their permit. A Designated Grower, on the other hand, must have no prior Cannabis and Controlled Substances related offences in their past to be eligible.

However, in both cases, the Minister may refuse to register (or renew or amend) an application, if it is "**likely"** to create a risk to public health or safety, including the risk of cannabis being diverted to an illicit market or activity and revoke a registration where there are "**reasonable grounds**" to believe it is necessary to do so to prevent such from happening. Both involve the establishment of a 'probability' not a mere possibility.

Will we now be facing a situation where the Minister refuses to register an otherwise eligible medically approved patient simply because he/she knows and may have associated with someone simply charged with an offence or convicted of such or someone the Minister believes, based on a LERC, to be members of an organized criminal group, that you know from a group you were in at a beach 10 years ago?

To avoid this type of scenario involving the criminal law, the police and the courts, it is respectfully submitted that Health Canada should consider the following different approach with respect to cannabis for medical purposes:

1. Put cannabis in any of its forms on the Federal Medical Formulary and then the BC and other Provincial Formularies so that those attending on their doctors for opiate prescriptions paid for by provincial medical plans can be offered a non-lethal dose substitute namely cannabis and have it paid for on the medical plan. The safety and efficacy issues are met by legalization allowing adults to buy it in a store along with the USA NASEM report https://archives.drugabuse.gov/about-nida/noras-blog/2017/02/nasem-report-recommends-removing-barriers-to-cannabis-research from a few years ago that concluded that notwithstanding the difficulties in the past of doing the research there is conclusive evidence of its effectiveness for chronic pain and this recent double blind placebo based Harvard study so confirms https://thegrowthop.com/cannabis-news/harvard-study-suggests-cannabis-is-effective-treatment-option-for-managing-chronic-pain.

2. Consider removing the exemption of Cannabis from the Natural Health Care Product regulations (NHP) and enable Naturopaths and Doctors of Traditional Chinese Medicine to be included in the definition of Health Care Practitioners so as to be able to prescribe cannabis as a whole plant medicine, and work with physicians in cases where their expertise is involved.

3. Enable existing Allard injunction grandfathered MMAR PPL's and current ACMPR PPL's to donate their excess product to non-profit groups such as those described above instead of destroying it. Those groups test the product before providing it to patients.

4. Enable existing Allard injunction grandfathered MMAR PPL's and DG's as well as current ACMPR PPL's and DG's to register as a specific new micro class that can sell their excess product into the medical or market as specialty craft/ legacy products and thereby reduce the cost further to their patients and with a view to making these products available to medically approved patients at reasonable cost as per the BC Craft Farmers Co-op Pilot project submission.

5. While it is hoped that the above approach will go some way too removing and preventing abuses, there may be some that continue to do so and, it is submitted that instead of focusing on the doctor/patient approval and whether it's reasonable or not thereby intruding into the sensitive doctor patient relationship and the privacy of medical information , the enforcement of any abuses by those who have not transitioned themselves into the legal market as proposed above, should instead follow traditional police enforcement practices such as surveillance, inspections, wiretaps if necessary and search warrants focusing on existing associations and conduct.

Obviously there are many persons who have become involved in cannabis production and use going back to the 60s and 70s , some of whom may have been charged and convicted and have records and many of whom probably do not .It is submitted that “legalization” should focus on transitioning or rolling these persons into the legal regime, subject to appropriate conditions where necessary , just like probation or parole and regulate them in accordance with the civil and administrative processes instead of pushing them out to continue to compete with the licit market and requiring the use of the criminal law for enforcement and regulatory purposes.

Yours truly,

CONROY & COMPANY
Per:

JOHN W. CONROY, Q.C.
Barrister & Solicitor