***( pdf reprints for dissemination are available on potdoc.com )***

Dear Colleagues (& Patients) —

Please accept my apologies for my tardiness in posting this promised critical follow-up to our historical March ’07 LA cannabis physician professional gathering. In addition to the enlightening academic presentations by such internationally renowned historical luminaries of Science and Medicine, it was truly a great honor to meet the brave pioneers of the Southern frontier. I am the first to assert that SF/No. Cal has been a relative safe haven in comparison. May our unification finally lead to a rational and sustainable Prop. 215 implementation statewide. Specifically, I sincerely hope that the hard earned fruits of our aggregate prior, ~relatively ~‘sheltered’ experiences ‘up north’ may spare many a newcomer in this area much nightmare anguish of the worst sort any physician may experience.

In follow-up to our assembly, as committed, I have contacted senior internal California Medical Association ‘medical cannabis’ et al officials and was returned several names for further screening of ‘Med Board’ attorneys that should prove prime resources for any Medical Cannabis physician to retain. Presumably there are multiple quality others available. Be cognoscente that we are NOT dealing with the far more common area of medical malpractice law but rather with the specific & much more esoteric area of ‘med board’ law. Best let attorneys not already <u>well</u>-versed in this sub-sub specialty minutia cut their teeth on someone else’s behind (&license)(&$$$) other that yours - perhaps on more mundane cases such as GYN ‘exam’ ‘issues’, etc. Pioneering a new frontier (especially in such a RED-HOT area!) clearly is NO place to start with anything less than those already fully up on all that has already been established as Law. From my own personal experience, I cannot emphasize enough the importance of IMMEDIATE <u>pre-emptive</u> retention of specialists in this arcane land-mind area of the law, and of obtaining a THOUROUGH, detailed, actual on site ***<u>‘bed-side’</u>*** review by a JD clinical specialist of actual patient charts, <u>all</u> practices, procedures, forms, etc, and especially the potentially condemning (for ALL parties) <u>central</u> diagnosis documentation requirements of your practice. There is no such thing as trivial minutia. In effect, this is a NEW method of creating a new medical specialty **:** proactive Legal Review as an integral and initial component of both specialty and individual practice design. Aside from this being the ONLY safe path for the physician, in so much as this is a medical-legal specialty and we are NOT attorneys (with deep sub-specialty experience in medical practice law), proper patient care mandates such for all but perhaps that sub-set of those original founding pioneer practices that are currently already fully ‘in compliance’. Those founding practices that are not collecting full and adequate diagnosis and on-going care documentation as per the current clarified legal requirements should heed this opportunity to preserve their status and update their practices accordingly. <u>ALL</u> Medical Cannabis practices need a permanent appropriate legal team on stand-by, <u>*minimally*</u>.

Robert Sullivan
Nossaman, Guthner, et.al.
915 L Street, Suite 1000
Sacramento, CA 95814
916/442-8888
(also LA & SF offices)

---

Mark Levin
Lewin & Levin
11377 West Olympic Blvd, 5th Floor
Los Angeles, CA 90064-1683
310/3123737

Additionally, the above Nossaman, Gunther et al firm has a RN/JD practice specialist Mary Antoine in house as a resource that is available to work with whatever outside legal a physician should retain. Again, there are presumably other acceptable equivalents available. ANY adequate practice review in our specialty MANDATES serial in-depth bedside and on-going chart review by a medical practice JD with clinical patient experience as a CENTRAL part of any competent overall practice development. This is the one-step that cannot be omitted. Her chart documentation review process is not dissimilar to the physician 'training' one would expect from a medical billing service seeking to legitimately maximize 3rd party reimbursements - and will leave you ~'bulletproof"! Just request her (or whoever's) inclusion in what ever team you assemble.

Current California Medical Marijuana practices include a vast majority of quality physicians genuinely seeking a good-faith implementation of a good-faith interpretation of Proposition 215 – 'rough edges' not withstanding. Tragically, a small cadre of selfish bad-faith individuals performing to at best bad-faith sham pretense legal compliance persist in jeopardizing this remarkable therapeutic modality for all. '215' recommendation Vending Machines. "Illegitimate Medicine". I have discussed this posting with these above legal resources. Rest assured, they are not for those professional embarrassments whose goal is to cheaply trade their in degrees in an 'early retirement' gamble via servicing a pot dealer's script mill greed machine (they make $$$MILLIONS while you are left with the monkey's cup of loose change / use Med Board guidelines & get your chain yanked - figure it out, Doctor…?so *this* is what you went to med school for…). Those pathetic individuals merely seeking more song-and-dance cover to perpetuate their monkey grinder act as long as possible, pumping out toilet paper pot club admission tickets to scalp to 18 y/o partiers, should go elsewhere. These attorneys are both quality individuals and top-flight highly knowledgeable professionals that are here to facilitate the development and practice of a quality, legitimate, solid Medicine, and have bravely and boldly stepped forward in the name of what is right. All of Medical Cannabis owes these unnoted true heroes their deepest gratitude.

Bob Sullivan heads my legal team. The pioneering practice protocol that we aggregately developed (and that was uniquely, ultimately, essentially de-facto 'approved' as being fully **"in compliance"** by the Medical Board of California) I had opted to treat as

proprietary practice intellectual property to date. However, for those physicians that so choose, by 'gentleman's agreement' with Bob and myself, to contain their medical cannabis practice offices, 'marketing', and focus to OUTSIDE of GREATER Bay Area (~Monterey – Ukiah – Sacramento – Merced **[*excluding*]** ), I am releasing this outstanding team from this constraint to help this law land sustainably. I fully acknowledge that patients will arrive from everywhere, move around, etc. – and of course you, as their chosen physician, should take on their cases at your unhindered discretion. I do ask that any marketing, web sites, etc. CLEARLY and PROMINATLY delimit your at least publicly proclaimed geographic limitations. Considerable expense ($$$ and 'otherwise') was incurred by me in protocol development. Other physicians already in major do-do**:** please feel free to contact me for a case-by-case exemption. For those who have an active med board case involving Medical Cannabis practice issues, and while acknowledging my obvious grateful uninformed profound personal bias **:** if any team can pull a rabbit out of the hat, this one can. If you are already using non-'med board' law in an active case, at least, minimally, have the case reviewed (and possibly added to in a consultative role to your team - or 'more') by *someone* well versed with this arcane area of the law. Without such, you are all but guaranteed toast.

Retrospectively, realistically, to enter our specialty essentially guarantees subterfuge 'less than good faith' visits from multiple authorities' non-stop as a permanent integral component of practice life - historically *minimally* including the Medical Board. One can but only rationally assume to be under a continually recording microscope. 'Forever'. NO room for *any* deviation from 'full standard'. **EVER.** *Every* detail and *every* case of your practice needs to withstand the public global tube fishbowl reality of the 'retrospectroscope's' humbling 20/20+ acuity. How do you want to look on your international debut on **FOX**? Only a drug dealer with more than a few lose screws could have delusions of stepping into such a high-profile hot seat spotlight and actually expect to sustainably blatantly publicly ignore all accepted professional and legally mandated licensure performance standards without the inevitable definitive consequences. How many times can you spin the barrel and squeeze the trigger 'until'…? Having been preemptily signed off by reputable, recognized, prominent legal in this area apparently carries much weight in preventing Med Board et al 'mischief' from progressing, in addition to minimizing the infinity of occult pitfalls any physician will otherwise unknowingly inevitably commit routinely in developing their individual dialect of practice in this pioneering area. The expense, aside from simply being a MANDATORY 'cost of doing business' in our specialty, will prove to be infinitely less than the costs that assuredly will be otherwise incurred in the (best presume inevitable) assault upon your license, name, et al. Rest assured justice does NOT prevail in this system. Historically, few *ever* 'win' against the Board. Their draconian fear-invoking reputation has been long and well earned. Rigged 'due process' – written by them! Never see the eyes of a jury. 'Dirty' and biased judges. Recycling paid lapdog (chosen by them!) ~self-proclaimed med board moralizing 'expert' physician 'consultants' licking their masters' feeding hand in infinite quest for yet another bone. Six figure legal bills. Loss of license, insurability,

employability, reputation, savings, retirement, children's education, home… Protracted agonizing ***years*** of one's finite life paralitically squandered in desperate attempt to salvage even a modicum from the above. The incalculatable toll the above infinitum of morass takes on what remains of those surviving special personal relationships that comprise the very center of life – as well as on both their and your subsequent both physical health as well as subsequent happiness, adjustments, capabilities, etc. in the lives of all directly or tangentially touched. **State Rape.** The cascade of fallout is infinite and, regardless of outcome, exponitiates through the remainder of all survivors' lives. Even with appropriate prior legal sign-off, potential official 'inquiry / review' (minimally) permanently remains an EVER-present reality. Those not prepared for such scrutiny would be well advised to bolt - ***now!*** I assert that those that have not been a full cycle victim (yet!...) and yet cheaply would glibly seek to deliberately rosily shelter the novice clinician from these harsh proven basic realities of professional life are anything but a 'friend'. To knowingly silently allow a trusting colleague to unknowingly commit such statistically all-but-guaranteed professional suicide, and additionally selfishly further comprising the greater perceived legitimacy of the greater specialty, profession, science, and movement en route, in a desperately short-sighted selfish sabotaging attempt to just increase the size of the heard at any apparent cost, placate their own practice insecurities (unfounded *and* founded!), subversively pervert established professional group derived standards into hopefully facilitating their own concealed med board 'difficulties', or whatever other irrelevant petty per$onal gain motivations, is not how ethical physicians treat one another, their specialty, nor The Profession. Especially when the nightmare presumably can now be so easily averted by adherence to a set of guidelines extrapolated from the greater routines of Medicine that, frankly, are so elementary that any competent idiot should be able to easily comply (i.e. simply the *same* diagnostic, documentation, lab/radiology, consultant, etc. standards used when getting your on-call surgeon in out of bed to check a belly down in the ER at 3:30 AM…). Treated *'just like any other medicine'* – what we have all requested and what the law requires. THE fundamental elementary established external reality to come to terms with. It is really quite routine, indeed mundane for any passable med student by 4th year. Any physician that is so intellectually, ethically, or whatever in over their heads that they can't even manage to legally (i.e. competently)(i.e. as per Med Board practice guidelines) complete a Mickey-Mouse 'Prop 215' form self-declares themselves a quack that obviously is unfit to be turned loose on the public's dogs. Let alone upon humans. ***Any prop 215 recommendation that fails to meet the basic brief CA Med Board guidelines on any individual item looses its legal credibility on all other items*** and risks complete collapse under attack, defeatingly leaving the innocent and trusting paying patient victim fully exposed to full bore criminal prosecution. Latent physician fraud real & punitive damage liability issues not withstanding, physicians simply are not licensed to sabotage innocent trusting patients' lives with booby-trapped phony prop 215 pseudo-protections – unknowingly or knowingly. Competence is *always* legally and professionally required. Patients are potentially far worse off with false / scam

legal shelter than no legal shelter. ***With numerous (and an acceleratingly increasing number of) governmental authorities now refusing to accept as valid any 215 recommendations from any other than physicians of FULL Medical Board 'good standing' status, patients risk (alarmingly potentially unknown) abrupt loss of their legal protections upon physician conviction.***

There is ***no*** place for **censorship** in Science, Medicine, any legitimate professional organization, or indeed Life itself. Indeed, to the contrary, 'legitimacy' intrinsically mandates the accountability of transparency. If a physician has 'concerns' regarding their practices, then it is their own actions that require redress rather than childishly seeking the intellectually dishonest squelch of free factual discourse amongst colleagues. If they have no such concerns, then let them stand up in the full light of day and freely advocate their position to their peers, patients, The Board, etc – just as any REAL physician would do. Otherwise, these compromised individuals need to go. It is almost comically absurd to dare assume that any cannabis physician that will not even stand up for themselves would actually to do so for a patient in their time of need. Any physician that can / will not stand up for their diagnosis / treatment has no business being entrusted (by patients or the licensure authorities) to practice that medicine. GROSS incompetence, medical fraud, *and* patient abandonment – all by inherent definition. My personal 'successful' escape from the above draconian med board bad-doctor machine is a dark and bloody ~non-replicatable tale of rare statistical fluke. Where the 'get-the-doc' subterfuge post-215 obstruction policy was finally irretrievably pierced and ***a*** legally approved definition of 'how to do it right' was finally delineated. It will be the joint task of you and your chosen legal consultants to formalize your own unique pioneering dialect of Cannabinoid Medicine practice (actually an intellectually fascinating, enlightening, and rewarding experience in itself, btw). I can only regret that I had not been the recipient of this email when I founded my practice in 2000. I openly challenge ANY that object to this potentially preventative senior experienced take-it-for-what-it's-worth guidance to offer up ANY physicians that *actually have* undergone the full Med Board Inquisition cycle that would refute the at least greater wisdom of these hard learned lessons.

Unfortunately the 'confusion' of basic, indeed elementary, standard meeting agenda structure of our gathering resulted in a tragic raced, compressed, fleeting 'presentation' of a direly needed much more detailed participatory discussion of the hard earned central Med Board standards – retrospectively clearly THE most important (and clearly most pressing) need of that meeting. Some factual history behind these legally minimally accepted performance standards may be illuminating. In the founding days of '215' the only official practice parameters clinicians had to guide them were so vague and minimal (presumably deliberately so) that they essentially proved worthless - other than as a VERY successful vehicle to permit malfeasant 'anti-215' authorities to successfully illegally assault ~EVERY physician that dared enter this new specialty, essentially for breaking rules that didn't exist. In response a working group of founding 215

practitioners, in their quarterly professional workgroup 'survival' meetings, jointly developed and approved what eventually became the present official State ~de-facto administrative law practice guidelines. This proposal was eventually forwarded as a formal motion by legendary esteemed Physician Prop 215 co-author 'any other condition' Dr. Tod Mikuriya up the official chain of the California Medical Association process via the Alameda Co. Medical Society. It was eventually adopted by the entire CMA delegate body floor at the Dec. 2003 annual meeting in San Francisco for referral to internal CMA committee/staff for further development, following supporting / salvaging public testimony from multiple founding Medical Cannabis physicians in attendance. In follow-up, at the historic, ~record attendance Newport Beach May 2004 Medical Board meeting a prolonged closed door late night special committee session the prior evening was held solely to further develop this proposal. A phalanx of senior who's who of those responsible for the serial obstruction of Prop 215 dating from even prior to it's original passage flew in (literally with their guns!) in opposition. Apparently these anti-215 subverting forces were indeed most adamant on NOT having Medical Cannabis treated 'just like any other medicine'. However, our friends in high places (and 'moles'!) *eventually* prevailed, successfully landing Medical Cannabis as an 'Over-The-Counter' (rather than 'Prescription') equivalent collimating from a physician evaluation process that is simply the *SAME* as for *ANY* other therapeutic modality - precisely what we had merely been asking for from proposal initiation **: WE WON!** In participation, attendance and testimony integral to this victorious process were MULTIPLE original Proposition 215 authors (and dogs…), senior State legislative staff from Senator John Vasconcellos, senior California Medical Association representatives and consul, a plethora of patients from both Northern AND Southern Cal, and a cadre of founding Cannabinoid physicians (was yours there?...). And, repeatedly, our good Arnold's boot! Needless to say, these guidelines did NOT 'just appear'. Much pioneer blood, good will, and political capital has been invested by many of our TOP 'friends' and *real* leadership into getting '215' up to this point in implementation. The next has been entrusted with physicians. These simple guidelines are not the product of the obstructionists but rather come from us. Multiple TOP officials have gone out on a limb to gain this path. Clearly neither the guidelines nor these quality leaders' faith and trust are to be casually or trivially discarded nor abused. Legitimate patients, physicians, Dispensaries, and true Medical Cannabis advocates should object vociferously to those irresponsibles, inappropriates, 'God complexes', social parasites, 215 'Rx' vending machines, or whatever that would freely and mockingly cheaply trivialize the above persons, efforts, trusts, process, and product in pursuit of heir own per$onal opportunistic financial gains - irrespective of whatever glib 'leadership'/'activism' 'holistic' stoner bla-bla-bla flatulence-du-jour proffered. Reality speaks for itself. Greed long *proved* infinite. To trash the above is simply not these individuals place. Those tragic challenged physicians so fixed on their own performance inadequacies need to simply correct their own deficiencies rather than seeking to cheaply and deceitfully manipulate others into their same ruinous illegal mire. Those that continue to renew undocumented recommendations without correcting their prior deficiencies at serial re-opportunity merely serially

underscore their irremediable intransigence. The time is LONG past for those that freely and mockingly fatally hemorrhage 'recreational resales/sales marijuana' into prop 215 for their own per$onal profiteering at the inevitable ultimate expense of *millions* of legitimate patents and the brave pioneering legitimate dispensaries to grow up and cease their adolescent destructive greed antics or simply leave the field – ***'with assistance', if necessary***. We as members of a special calling 'higher' than the routine are under fundamental inherent moral commitment to 'police' ourselves. Their circus is not what the voters intended, this law belongs to everyone rather than just these peripheral self-inflated opportunists, and too many genuinely sick and suffering citizens are legitimately 'dependent' on prop 215. Patients EXPECT of *responsible* physicians the **professional maturity** to stand up to such quackery and parasitology. It now remains for us physicians to complete implementing this law in it's now clarified form, eliminate non-compliant bad-faith evaluations (including, if not remediable, removing the perpetrating clinicians) from the profession, and thereby finally render this a legitimate, sustainable, respectable, acceptable, and permanent therapeutic modality consistent with the rest of medicine.

It is deeply reassuring that so many of our Southern Cal colleagues were clearly in such marked desire of MUCH more in depth discourse on this topic and are so sincerely interested in developing fully compliant and hence sustainable practices (not to mention saving their licensees). Those that do not will ultimately inevitably wind up as empty-handed fodder for the above Bad Doctor Machine and its resultant all but inevitable product. Just because 'everyone' else it doing it doesn't mean they will continue to get away with it – rest assured the day of reckoning with reality WILL come. Those that do proceed from other's prior experience will ultimately find that they will have a real practice of delightful established patients – unassailably fully 'documented', and most pleasant and educating - that they will be comfortable with, proud of, and gladly stand up for in he full light of day to any assault. Not that you will need to – professional reputation will eventually all but obviate the need for any other than staff verification that any particular document is not a product of forgery. Apparently MANY of our over-burdened criminal justice system are actually relieved, indeed grateful, that at least there is at least one less case they have to question. Hard working honorable and dedicated people just trying to do their job properly and appropriately – a model example for much of government to follow. Much of law enforcement has the maturity, integrity, and constitutional legitimacy to happily just deal with real cases. Certainly pathetic exceptions abound – but it is their duty to first police themselves, just it is ours for ourselves. ***Let transparency be your friend, not enemy. It is rats that dread sunshine.*** No need to fearfully hide in a back room, in furtive paranoid scurry of 'narcs' et al. The ONLY act that becomes inappropriate is *their* very presence (HIGHLY illegal for **ALL** levels of **ALL** government - as per 'Conant' and further clarified in subsequent unchallenged Med Board testimony, baring *legitimate* substandard practice questions / patient, etc. complaints or strong preliminary indication of 'aiding and abetting distribution…' [such as seeing patients at a potclub - or even worse any hoax of

selfincriminating malfeasant 'nonequivalent']). When the other quick-buck smash-and grab practices are long gone, when the initial '215 backlog' of patients has been converted into established patients and the remaining MUCH smaller new patient stream is distributed among an eventually much larger pool of compliant local practices, you will be left still standing' uniquely and irrevocably already established as a recognized pre-eminent founding leader by all concerned – especially The Public. 'Professional Reputation'. And both you and more importantly your patients will continue to thrive accordingly. Pitfalls not withstanding, you are indeed facing a very special and uniquely exciting professional opportunity by all definitions. (And just wait until you dig into the *real* underlying science of Medicinal Cannabis – the really fun part! ! ).

Pending more a more definitive individual practice review by legal APPROPRIATE to the issue at hand (i.e., again, medical practice law, NOT drug dealer law, tax law, business law, patent law, real estate law, etc.); and lacking the in-depth professional group discourse that we were all so tragically deprived of at our otherwise successful historic gathering, may I proffer some miscellaneous statistically invalid anecdotal observations garnered from my own, often less-than-pleasant '*n* of 1' experience. Of course, for formal legal opinion one can ONLY rely upon appropriate legal consul.

A 'Prop 215' Physician's Medical Marijuana Recommendation has a fundamental existential duality comprised of both a medical-legal determination that affords the patient legal shelter from the 'recreational' Marijuana criminal justice system, as well as being an actual medical treatment supervised by a physician. Competent, sound, legal and ethical medical practice mandates compliance with 'generally' (i.e. l*egally*) accepted, expected, and assumed standard-of-care thresholds on **both** fronts. ***A Prop 215 recommendation is only as valid as its ability to stand up in court***, whatever that standard may be - although to deviate from the greater norms of Medicine is to court a true-life catastrophe for ALL involved (what the patient came to you to avoid!). At the current 'billable hour' rates for quality legal, patients – the ultimate bearers of any practice error - should be wary of any *un*proven novice cannabis practices developed without additional outside 'licensed' appropriate sub-specialty legal review. And, first and foremost, we are to do no harm. This is our fundamental mission and obligation to the patient. This is what we purport to offer. This is what we are paid to do.

Seeing patients at a Dispensary or pot club, or having **ANY** specific or preferential business/practice relationship with them, overt ***or*** (even worse!) covert, prima faca represents 'aiding and abetting…' and hence is a HUGE Federal ***criminal*** felony act that jeopardizes not only the offending physician but also ***ALL*** their medical records, ***ALL*** their patients, ***ALL*** partaking clubs and ***ALL*** other related clubs' patrons - as per the US Supreme Court itself ('Conant'). At most a Dispensary can offer non-affiliated, *non-preferential* community bulletin board public service 'postings' or equivalent. Beyond this, physicians clearly simply have NO legal protection whatsoever – not even a fig leaf.

Subsequently the very same court & judge that afforded us 'Conant' has also **re**-affirmed this one exception to 'Conant' and 'loudly' underscored that the law meant real business on this one. The Feds will put you behind bars on mandatory minimum of staggering *years*. And, of course, you will be un-licensable permanently in the US and essentially the rest of the first world. Also note the above special emphasis on *'covert'***:** Do you really think that some marijuana-seller's 'pipe' dreamed 'bright' idea to have his wife's mother's pet canary 'conveniently' rent the office 2 doors down for 'rent-a-script-doc-du-jour' will fool these guys? What of your subsequently direly needed credibility after discovery of the malfeasant drug-dealer charade? Wanna bet the above?? Are you really that dumb??? If you are scheduled to see patients under such a cloud even today, you can but only assume 'they' already are building a case on you, and can but only sanely 'call in sick' TODAY – ***NOW!*** **:** "The Doctor had an emergency and must reschedule". It is quite routine in medicine. The patients will still figure out how to get their medicine for yet a few more days. Perhaps instead leisurely spend your afternoon in pre-emptive philosophical consultation with top-flight *federal* CRIMINAL legal (in addition to your above med board attys.) digressing on the realities of life. MAYBE you can actually pull off an 'ignorance' claim. But then, this *is* 'ancient' Law. Indeed really just 'Med Pot 101' stuff. And you *have* been claiming to be a 'specialist' (i.e. 'expert') de-facto by practice definition. Good Luck. Perhaps those already in this special mess may offer additional peer guidance. And handholding. Obviously, *any* physician that has already committed this or other gross '215' violations (especially with such a telling irrefutable 'paper trail') is in special need of *immediate* 'prophylactic' appropriate legal, should these past illegal acts and their all-but-assured associated unknown investigations develop into the best at least assume inevitable dreaded next-step call from The Medical Board.

Additionally, a pot club is a self-indicting setting for seeing patients, *at best* merely comically absurd to the rest of Medicine - and Public. Would you seek your own chest pain evaluation, allow your child's laceration repair, have your dog get its shots in such an environment? And your legal is actually expected to keep a straight face when presenting your case?...

Beware of the incessant profiteering 'physician referral' 'services'' that continue to plague 215. Ever actually read that additional specific referral/self-dealing/kickback line item you sign every time you renew your MD license? Essentially ALL these 'organizations' are illegal (and ESPECIALLY so for the physician – unknowing or not!) as per the Business & Professions code. ANY exception sanely first mandates prior specific review by the potentially offending physician's own personal Medical Practice specialty attorney, regardless of whatever glib hucksterism assurances offered. In reality, these 'services' normatively have thrived as 'Conant' violating links to specific marijuana vendors/pot clubs. (At one cannabis physician's license revocation hearing it surfaced that the 'referral service' individual was surreptitiously pre-prompting patients for bogus complaint evaluations in the waiting room while simultaneously selling cannabis on site to the patients on discharge!) These individuals, in the eyes of the law,

are merely acting as the physicians' agent and hence it is the physician that pays with their life-long earned license for another's quick gain of loose pocket change. Clearly, any physicians partaking with any such programs should, minimally, EMERGENTLY temporarily cancel your listings, etc. in writing by overnight/certified mail/return receipt pending appropriate thorough review.

An even bigger not dissimilar lethal ensnarement ruining multiple innocent physicians' lives has been bad faith employment by Medical Marijuana medical practices. These practices have normatively included illegal non-physician ownerships/partnerships (a BIG no! – especially if a pot seller is involved – unknowingly or not is ~irrelevant). Just try to implement YOUR own attorney's *real* practice guidelines (it IS *your* license at stake) and get another shift. Untold ~?!*dozens* of quality physicians (tragically reportedly even including fresh residency grads!) have wound up as ruinous Med Board fodder from just one continuing source alone. Employer's empty assurances of prior appropriate 'legal approvals', protocol compliance, 'legitimacy', etc. that vaporize upon Med Board entry. Originally promised legal back-up proven non-existent and no more phone calls returned. On to the next gullible physician sucker – and typically for nurses' wages at that! (Except that the RNs will keep their license and earnings, while the MD goes into the 'red' funding the battle of their life!) The innocent 'offending' neophyte physician left to deal with their ruinous now established-on-tape reality. The professional charlatan company owners left to continue making million$$$ destroying yet more colleagues' lives. Their colleague victims left to at best 'class action' dialing-for-$$$ civil litigation for clearly qualified compensatory redress. Why not just rent your own office, 'do it right', and be the one that 'profits' instead? Again, minimally, as per published senior Med Board advice, ANY such employment arrangements sanely MANDATE emergent appropriate personal Medical Practice legal review. You need someone that is looking out for YOU, NOT furthering their game. It will be the individual physician that looses their license when all is done.

One alarming recent example involves the ?still pending 'ownership change' of a prominent Medical Cannabis practice to a (apparently grossly illegal) shared ownership that includes a new physician and a (?~concealed) non-physician 'marijuana entrepreneur'(?complete with the usual legal 'history') owner of a multi-state medical marijuana clinic chain (other medical marijuana 'histories' unknown) – placing confidential patient psychiatric and medical records into grossly inappropriate profiteering hustler hands – typically illegal and all without ANY patient knowledge, let alone prior informed consent consent! Aside form the blatant ?class-actionable liability / HIPAA issues, multiple *criminal* law questions are raised for ALL parties concerned, especially minimally including both any purchasing and selling physicians involved. New carpetbag ownership mandating physicians crank out illegal undocumented quickie recommendations pursuant to an announced rapid statewide expansion – and all in the name of 'helping' California 215. The 'wisdom' of any patent EVER trusting such an obviously 'challenged' illegally owned practice with their 'care' speaks for itself.

Whatever 'creative' / ?concealed 'exceptions' that may being 'tolerated' in Hawaii, Oregon, Washington, or whatever other states not withstanding, in California (and minimally most or more of the rest of the nation) these relationships are defined as the unlicensed practice of medicine and are imprisonable felony crimes for all parties involved, certainly including all those (physician and otherwise) that have 'aided and abetted' these acts – 'seller' *and* 'buyer'. Non-physician marijuana 'entrepreneurs' preying on physician seller's ignorance of the arcane – knowingly potentially trading in another's medical license for a quick 'commission'. The inescapable reality is that ANY non-physician ownership, partnership, 'profit participation', etc. of a practice of medicine is illegal. ~Always. The sale of a medical practice is different from hocking off a used car and requires medical practice legal assistance for competent ethical patient protection. The Medical Board (**800-633-2322**) is a resource that should be consulted as indicated and ALL involved parties, patients, etc. should contact them for further clarification and assistance, in addition to urgent consultation with their personal legal.

And just what is the difference between a legitimate Medical Cannabis Dispensary and a generic pot dealer hiding under potclub cover? At least the patients are defined by physicians – these retail outlets are merely self-proclaimed, perhaps eventually signed off on by a clerical worker in city planning. In reality, minimally, the difference is defined by behavior that is either consistent with or ***in***consistent with 'Medicine' as per the routine societal definitions. ***The Public would not tolerate 'Walgreens' buying a script mill MD to dutifully pump out full 1 year bottomless Rx's for morphine on 'boss's' command in a back room of off no-touch / vital sign / documentation / questions-asked 3 min 'exams' to any & all total strangers with a $. Clearly this is not Medicine and clearly it is simply not sustainable.*** 'Non-sustainability' tragically courts <u>total</u> elimination of the MANY dedicated, brave, pioneering, quality legitimate Dispensaries as well – all for an autonomous interlopers' parasitic smash & grab quick buck 'compassion'. And, of course, after the otherwise inevitable dust settles, ultimately it is the unrepresented patients that will be left without. The correlation between those physicians that espouse & practice less than full legal standard Prop 215 Medicine and those whose signatures so routinely stand behind the plethora of 'pot club revolving door healthy looking young males…'(and their 6 'caregivers'…)(and the as-seen-on-TV street resales) is striking. A small handful of greed driven disgraceful unfit physician parasites serving as THE facilitating portal of 'recreational' marijuana's 'invasion' of Medicinal Cannabis for a few acres in Mendocino or whatever trinket endanger this law for all legitimate parties. Of course, ***the authorities, having just been born yesterday, are indeed clueless regarding which recommendation sources they can feel comfortable with and which come from a hoax***. With a state population of 35 million, there is no need to be one of those physicians so openly laughed at on line. Real patients and Dispensaries that object to what they may witness need to speak up. A few appropriately placed phone calls can be done under any individual citizen's privacy of confidentiality.

Cockroach reporting (**800-633-2322**) is your right – and duty.

Founding a 'real' practice presumably will entail capital investment as well as some initial slow-down in revenue from any 'sub-optimized' current doings. Any disruption need only be brief, pending implementing a skeletal system, while the rest is 'on order'. You'll be amazed at how understanding, indeed supportive, your patients will be with a simple sign explaining your spartan novice temporary fixtures. Most real patients are planning to be with you for the long haul, want you to succeed, are 'rooting' for you, and are flattered to be with you participatorily from the beginning. Go head and rent an office. A real physician's office, perhaps in a medical office tower : security, parking, wheelchair-friendly, fully ADA compliant, etc. Just like the cardiologist, etc. next door. Buy real equipment. Real phones (&good luck!...). LAN. Welch-Allyn. Health-O-Meter. LOTS of copiers. EVERYWHERE. File system. Ritter. (IRS tip: motorized exam tables are ADA tax CREDIT eligible and hence almost ~free!). The reps for these products all are VERY helpful (especially when they find out it is for Med Pot!) and freely cross-refer. DEEP discounts are the norm. Lease deals abound if needed. (Though suggest just doing paid-in-full, where feasible). Herman-Miller does some GREAT seating products – especially ergonomic lines. Perhaps try McKesson Medical to start – they have been GREAT to deal with for us. Go ahead; build something to be proud of. & Incidentally, it will actually pay for itself as well. ***Why not base your practice on doing the best that can be done for your patient, rather than a wild & uninformed guess at what the least is that can be 'gotten way with'?*** Medical Marijuana doesn't *have* to be a running joke relegated to some pot store's back room. You, too, *can* be a 'real' doctor, have a real practice, and this *can* be a real specialty. Just treat it as such. At least out of basic decency for the rest of us and, more importantly, our patients. The ultimate success of this therapeutic modality stems from the depths of solid science and sound medical practices rather than shallow cosmetic 'Cannabis-wearing-a-tie' buffoonery. 'Medical Cannabis' statewide, nationally, and indeed globally is disgraced by the selfish parasitic antics of a greed few self-covered with absurd 'claims' to actually be facilitating this movement. Mark yourself clearly and unequivocally NOT part of their barker 'marketed' sham circus churns scalping phony pot club admission tickets to juveniles out of a 'conveniently' co-located back room. Have some self respect.

Hire and develop a permanent quality team. *Real* wages, actually compatible with existence, rather that 'what the market will let you get away with' - one of the 'luxuries' of not being an HMO prisoner. Fee structures commiserate with other specialties are fully appropriate for legitimate physician medical practices – especially in a world where '1/8$^{th}$ oz =$80+ for a backyard weed / *just* 1 billable hr legal=$250+++ ! Health insurance for all. Simply a 'cost of doing business'. Why not let those patients that would selfishly expect otherwise (so they may have a few more quarters toward $80 for a SMALL hand full of cigarettes of some weed that they could grow in the back yard 'by the '½ #'!) simply go elsewhere? You no longer are forced to become what they already have self-

declared themselves to be **:**‘Do onto others that what has been done on you.’ Do you really want to go to bat for that sort of human being anyway? Aside from a permanent staff becoming ‘family’, you will get what you pay for. Build a team & system for the long haul, which takes *care* of your patients (and you!).

Physician availability (including ‘on call’ if practice model dictates) – as per the routine accepted operating norms of Medicine - and timely cannabis recommendation verification and support systems will need to be developed. Any physician that is unwilling (or ‘unavailable’) (or unreachable!)(or, WAY to often, ‘unfind-able’!!!) for patient verification, diagnosis validity defense, etc. to law enforcement, etc. is guilty of prima faca patient abandonment. Any physicians not willing to stand up for their own diagnosis clearly has no business practicing medicine. If a 215 recommendation cannot be verified, then the patient automatically becomes guilty of ‘215 forgery’ by default – a felony crime that includes up to **$10,000** fine *and* **1 year** in prison. Moreover, until verified, the patient may well be left waiting it out in jail. Prop 215’s history is pathetically replete with fly-by-nite disappearing ‘affordable’ and ‘convenience’ quacks and subsequent patient et al expen$ive catastrophic tragedies.

Physicians are under NO obligation for every evaluation you perform to necessarily lead to any Medical Cannabis recommendation, let alone always a blanket 1 year, and especially all from just one visit. Nor does the physician have to grab *every* $$ waived under their nose (i.e. ‘take care of’ *every* patient). Also note that dogs do not qualify under ‘215’. Also that a deceased physician obviously cannot testify to support their recommendation and hence it becomes worthless paper. Nor is there ANY obligation to accept every patient that presents into the practice. This is not Captive Medicine. This is not the ER. When confronted with hostile, demanding, manipulative patients resistant to the physician’s outrageous expectation that their cases ultimately will be fully documented, have ongoing care, etc. **as required by law to the same standards as per the routines of Medicine :** simply, abort the incomplete evaluation, void out the visit, give them back all their $, never evaluated=never paid=never entered the practice=no med record creation/retention, and feel relieved. Good Riddance! ***No satisfaction can quirt rival that of having a good BM.*** (& Your staff will love you forever for it!).

Obtain vital signs on ALL patients at ALL visits. And weight. Just like in a ‘real’ doctor’s office. You will be surprised how much new dx hypertension is out there, btw. Consider investing in a vital signs instrument (complete with paper tape print-out – or direct feed into an EMR). You will instantly (& appropriately) be markedly differentiated from the ‘not-real’ Medical Cannabis pseudo-practices to ALL relevant parties.

Actually do a basic systemic physical exam on your new patients in addition to a problem focused exam. How much effort does it take to auscultate a chest, do a fundoscopic, palpate an abdomen, thyroid, check reflexes, etc.? Actually spend some time with your patients. While any individual patient’s needs may vary greatly, the established Medical

Cannabis practices seem to typically spend ~25-45+ min. for a typical new patient – fully in line with most other specialties and apparently consistent with med board desires. The 3-5 min no-touch, etc. pseudo-exam in reality is but a self-evident joke not only on the trusting patient as well as law enforcement, but ultimately the committing physician. First and foremost, the time it takes is just what it takes. Either have them come back for completion or just let the waiting room wait. Obviously, ***quality MUST ALWAYS be met 100%***. It is reassuring (or perhaps more accurately alarming!) when your patients routinely comment that you have just done more of an exam than they have ever had from their Kaiser physician…

Use standardized forms for your History & Physical. Diagrams. Several pages. These are commercially available (check the web for medical forms) for a spectrum of specialties. Apparently med board loves paper. Keep appropriate medical records. Bear in mind that the filing system you choose today (folder type, document placement protocol, color tab system, numeric vs. alphabetic, shelves vs. cabinets, HIPPA, etc.) is actually a major commitment into what you will be living with presumable 'forever'.

You will need to develop an informed consent document for patients to sign. Obviously CRITICAL that legal approve the dot on every 'i' on this document. Be sure to cover the 'DUI' issue. Pregnancy. Patients need to be warned about the State Medical Marijuana card date error AND subpoena-able database issues. And that ALL of Medical Marijuana IS illegal under federal law.

When a patient receives care from a physician there is a legally implied assumed minimum standard of care that has been delineated in Law – as per the legally mandated compliance with the simple and admirable widely published CA Med Board Medical Marijuana practice guidelines. Contrary to some apparent current field opinions, it is NOT the physicians inherent 'right' to do whatever 'extra' they so please with their pinkie during their pelvic/rectal exams. Whenever any even question of deviation from these generally recognized standards takes place, minimally, legally and ethically, the physician is mandated to inform the patient in unequivocal terms that such a deficiency is taking place – and best in signed writing. However, in clinical practice reality, there is much that the patient simply can NEVER legally 'sign away', regardless of whatever nonsensical form they may sign. Clearly, minimally, ANY deviation, or even the remotest hint thereof, mandates prior written 'approval' by appropriate legal. To do otherwise is an absolute hallmark of an unfit physician to be avoided at all costs. Such physicians certainly are free to gamble their own homes, families, careers, education, futures, lives, etc. on their personal rank amateur 'pipe' dream fictional law theory, but whatever 'puffed'-up GOD complex grandiosities not withstanding, to do such upon the innocent trusting patient is simply not the physician's place. 'Unlicensed practice of law' issues not withstanding, they come seeking, minimally, standard-of-care *medical* treatment, NOT to be your paying armchair amateur *legal* theory guinea pig. Concealed 'product' non-compliance represents medical fraud by definition. Licensure authorities (and their 800-

numbers – for CA **800-633-2322**) fundamentally exist to protect all of us from such abusive criminal fraud quacks.

Pregnancy and Cannabis are CLEARLY contraindicated on extensive solid basic science grounds – though admittedly is a seductive therapeutic modality for the 'discomforts' of pregnancy. Clinically relevant birth defect, etc. issues have not been detected (to date!) - against the VERY LOUD 'background noise' level of modern life on planet earth. However, cannabinoid receptors ARE present and indeed actually CENTRAL to the evolving function of the embryo from prior to the single cell forward, and appear to be an at least MAJOR cell-cell signaling mechanism guiding cellular differentiation - complete with the involved receptors continually changing their underlying signal transduction roles as the organism matures into fetus and the receptors eventually settle into their 'mature', more 'elective' modulatory (rather than prior effector) functions. A fascinating story we have but a glimpse of (as is usual with the greater field of molecular developmental biology), but clearly to knowingly through ANY agonist ('organic' ***or*** 'synthetic') 'blindly' into such a system in humans can only be likened to Stoner Buchenwald. Any physician advocating otherwise should first at least learn their Science. We live in the 21st century, not the 12th.

The Med Board standards clearly allow ONLY for a MAXIUM of recommendation length of 1 year – and even then ONLY specifically *as indicated* – just as with any conventional 'prescription' worldwide in modern, first-world medicine. Any confusion arising from any 'pot card' program, 'SB 420' (essentially a marijuana sales law, certainly NOT a medical practice law), etc. potentially permitted durations for their peripheral but unrelated documents are irrelevant. To issue longer than 1 year durations without clear prior official legal ruling defrauds the trusting innocent patient of legitimate protection (i.e. 'just *which* 1 year period out of those otherwise invalid multiple years was the prima fascia non-compliant multi-year recommendation *actually* valid for?...'- an historically highly successful classic insurance industry song-and-dance routine.). An anecdotal bit of med pot history **:** The '2 year' duration nonsense actually stems from the original SF city card – which, after legislative passage was left to local clerical staff manning the Passport & Birth/Death certificate window to implement. – these non-medical entry level City staffers had to make a wild guess for card duration on their own, so we wound up with '2 years'… These many years later into Prop 215, any quack Cannabis 'Specialist' still issuing 2 year recommendations is merely self-declaring their amateur Stoner Medicine incompetence (at best…) and clearly it would be foolish any *real* patient to trust all they have at stake on such uninformed hallucinations. Those 'medical practices' exist for at best 'servicing' the boguscomplaint party crowd merely seeking a pot club entry ticket.

***Genuine prop 215 legal protection stems only from legitimate medicine – NOT from whatever worthless marijuana 'certificate', 'passport', etc. purchased wherever. Patients do not 'need' a physician to procure pot in 21st century CA, but we ARE needed for legal protection – which stems***

***NOT from a physician's signature but rather from ALL underlying medical recordS from both the cannabis physician as well as all other treating physicians all the way back to underling problem origination.*** Get 'cute' and the patient looses their home, children, career, education, savings, retirement, liberty, etc., etc…

Far more significant is the board's emphasis on duration 'as indicated'. ***If a patient does not meet 'FULL standard' on initial visit, then legally the physician can <u>ONLY</u> justifiably (i.e. validly)(i.e. legally) issue AT MOST <u>very</u> short term 'good-faith' temporary recommendations*** (typically for a new unknown undocumented patient a *maximum* of just **one [1] month**) that in reality would NOT be able to stand up in court . The patient legally MUST be informed of this potentially catastrophic reality) pending development of a fully substantiated case (i.e. collecting APPROPRIATE establishing medical records confirming the diagnosis / symptom complex, performing the appropriate work-up and then ether assuming full care of the problem or transferring the non-medical cannabis part (before or after work up) of the case to another consulting physician. Merely requisitioning some old med records clearly does not meet this requirement - & obviously fails even more so if they never arrive, especially if after repeated requests… (perhaps they don't exist – perhaps even never did…). Also, note that you are not treating their forgotten surgical scar, nor L/S spine surgery 9 years ago, the old hardware in their ankle, nor even the photo of the damaged car itself *then*, but rather the current chronic pain, etc. of *now* – which obviously mandates data RE: the present condition the physician is actually treating. How-did-they-EVER-pass-licensure-exam issues aside, clearly any physician that would issue a full year (or even just a full '<u>3</u> months'!) of 'refill prn' Vicodin, Ambien, etc. Rx to a complete stranger off a single fleeting contact without any other on-going care 'documented' with an empty Rx bottle (typically for an unlabeled dx), D.C.'s old receipt for a 'sprain', surgical scar, masseuse's 'opinion', or whatever other concocted stoner farce is inevitably destined for a Med Board 'reality chat'. Those criminal physicians that foolishly malfeasantly masquerade publicly as being 'in compliance' while simultaneously 'secretly' continuing their same illegal charades in the exam room are destined for even 'more'. The long abandoned 'show me your scar' documentation standard was originally part of genuine good-faith exams (typically lasting ½ - 1hour!) in the blind early days of 215. (Massage parlor 'dx's' have never been accepted!) Tragically, it has been hijacked into an open bad joke by bad-faith 3-mininte quick buck scam quacks that apparently will do anything to avoid simply being legitimate. Yet even worse are those infinitely 'creative' practices that wantonly 'sell' a covering unsubstantiated and groundless sham diagnosis label from an illegally 'in-house' 'convenient' 'independent' practice. 'Medical Marijuana' is a VERY visible finite fish bowl and both committed colleagues as well as aghast patients are now routinely reporting (**800-633-2322**) these professional disgraces at every sighting and further are DEMANDING definitive corrective action from relevant supervising authorities. '215' is a last century law and The

Public has tolerated enough deliberate greed based abuse. There simply is NO way around this basic reality of medicine: ALL cases MUST be properly 'worked up' prior to any ongoing treatment as well as MUST ultimately have underlying ongoing full care appropriate for the dx at hand – either by their primary care, relevant specialist, or default to the cannabinoid physician. There is an infinity of complex and legitimate good-faith questions of 'adequate documentation' with EVERY case that presents. Fortunately we do now have meaningful (and easily achievable) official standards. ***Perhaps let the proverbial 'retrospectroscope' guide you through each and every individual patient visit : What protective documentation standard (for BOTH you and more importantly your patient) would forcibly leave NO room for reproach from a rabid foaming anti-med pot 'psychiatric' moralistic armed Doberman charging at your patient's and your throats if you were writing for infinite 1-year Oycontin?*** The sorting out of just what constitutes an appropriate level of documentation is actually the skillful part of what we are doing, the center of the legal protections the patient seeks (and pays for), and really does require a considerable depth and breath of Medicine. This is also where the legal consultant 'bedside' evaluation will come in – actually THE most beneficial (and humbling!) part of your pre-emptive practice review by legal. ***An appropriately documented Medical Cannabis patient chart is one that stands on its own – so self-supporting that the physician should not need to ever adjunctively intervene.*** One internationally renowned Cannabis physician ~recently lost his license (fortunately stayed by probation) over mere 'weak' charting on just FIVE patients – and the patients actually testified in person in protesting support that the MD had actually spent ~ >1 hour and gone into great depth of assessment. Clearly, ***EVERY*** case *must* ***ALWAYS*** meet ***FULL*** standard – as it is always in all of Medicine. And the absurdity of merely having the patient sign a 'declaration' 'promising' 'under penalty of perjury' that they really do have the diagnosis, records, or will somehow get a workup done or fax in 'whatever' 'records' 'later' perhaps at best qualifies as '51-50'[emergency psych holding warrant] criteria. Apparently punishing a patient for perjury overrides the Med Board et al and frees the physician to commit deliberate pre-meditated mal-practice, least he/she actually have to get up off their butt and expend any actual effort on the case. NOWHERE (other than a drug dealer boss's red-lit back room) is the physician appropriately even expected to see an unknown undocumented patient only once briefly for a full year's ongoing unmonitored therapeutics. Some will just have to be seen more than once : what ever it takes to meet Standard – nothing less can be accepted **BY LAW**. Perhaps just charge less for the follow-ups. The extra visits additionally will strengthen he patient's file, should law enforcement, etc. question arise. Be prepared, it will take some patient educating when the surrounding norm is the back room mill machine, but it is simply the reality for all to come to terms with. Do have the courtesy to remind patients in advance that your practice complies with the law (ultimately requires case documentation, etc. to the physician's satisfaction) – perhaps as an integral component of the initial appointment process.

Some further documentation examples may help clarify this critical clinical question**:**

Example **:** An empty Vicodin bottle for an unstated dx: Answer = worthless.

Example **:** A 2 year old Vicodin Bottle for 'Back Pain' : Answer = good for maybe 1 month or so coverage *then* (2 years ago!) – since worthless.

Example **:** A 2-year-old Vicodin bottle for '*Chronic* Back Pain' : Answer = MAYBE ok if it was from an on-going care relationship and environment and ultimately backed by medical records. Good Idea to eventually get 'more' to solidly protect the patient. Patient must still have a medically appropriate ongoing care relationship with someone.

Example **:** A 1 year old receipt for a DC's treatment for a 'Back Sprain' : Answer = Worthless, as sprains (and pains, headaches, nausea, dysmenorrheal, anexoria, fractures, 'subluxations', etc) are ALL short-termed and self-limiting resolving conditions UNLESS specifically specified as 'permanent'. If you want to take the liberty of adding a permanent declaration yourself (i.e. "chronic"), then you need to do the concomitant additional appropriate work-up (MRI, Neurosurg consult, etc.).

Example **:** A medical record with a 'Chief Complaint – 'Back Pain' : Answer = worthless - the ward clerk's recording of the patient's assertion is not a diagnosis. The diagnosis MUST be under 'Impression/Diagnosis/Assessment' – i.e. the physician's actual conclusion. When mentioned under 'History' it is just recorded 'he-said-she-said' empty verbiage. Also, again, for a permanent treatment, the diagnosis MUST be 'permanent'. Document must be from an on-going care source/environment. The diagnosis label MUST be unequivocal and straightforward. This label obviously is <u>THE CENTER</u> of the patient's (and physician's!) 'protections'.

It is also unequivocally multiply noted in the practice guidelines that the underlying diagnostic process (and hence criteria) that the physician uses that eventually ***may*** lead to a Medical Marijuana recommendation ***as part of*** the patient's treatment plan options is the **SAME** REGUARDLESS of the eventual treatment modalities chosen – again just as with the rest of Medicine, as we have all been trained. ***"It's just pot" clearly does NOT allow for any lesser performance, diagnostic, nor documentation standard than the rest of Medicine, as per <u>repeated</u> Med Board admonitions.***

***Inherent in both the standards of patient care in general AND in the Board's guidelines is the assumption that ALL patients MUST ultimately have an established source of care appropriate to the issue at hand as per the routine operative norms of Medicine itself.*** **:** i.e. D.C.s don't dx Glioblastoms; DPMs don't repair ACLs; Social Workers, 'Councilors', Acupuncturists, 'Holistics', 'Naturopaths', Palmists, Herbalists, Hospital housekeepers, Snake Charmers, Shamans, Massage Therapists, and even RNs, Psychologists, & Physical Therapists are

not legally authorized nor recognized diagnosticians for medication purposes. If they are not licensed to even order a basic x-ray, then any 'rx's' based on such lay diagnoses are open-and-shut malpractice. A physician does not have the legal nor ethical option of just taking on part of a patient's problem and abandoning the remainder. This is an elementary, indeed cornerstone, component of any physician-patient relationship from time immemorial. Authorizing a patient to go smoke pot for a year for their headaches without simultaneously ensuring that they do not have a CNS mass, etc. – either by direct appropriate medical work up or receipt of an appropriate medical consultant's assessment (again just as per the routines of Medicine) - constitutes gross negligence, blatant mal-practice, and prima faca patient abandonment regardless of what ever nonsensical hallucinated real estate attorney's concocted 'release' the patient signs. How far up in the courts should a physician crusade be prepared to go to 'prove' otherwise? And what if 'they' don't run out of $$$ before the physician? Liability insurance without a cap on legal?? Anti-marijuana forces *with* a cap??? Certainly infinity of bill-able hours for a hero physician to fund on this one. Perhaps wisest to deal with this reality *before* so forced. ***If the patient does not have an ongoing care physician, then the medical cannabis consultant must either take on the ENTIRE issue at hand (order the MRI, refill the Vicodin, 3am ER Admits, Neurosurg/PT referrals/ follow-ups, etc.) or get them into care appropriate to their '3rd party' (or lack thereof) circumstances <u>and</u> follow the case through work-up until a diagnosis is established and in aggregate treatment plan developed and implemented as per the routine standards of Medicine. Additionally the physician is REQUIRED to provide emergency 24hr live on-call availability to the patient or even 'the ER' if there is no other physician primary for the greater medical problem at hand. This reality is simply an inescapable fundamental component of the patient-physician relationship as per entrenched law and medical ethics. Only illegal skimming script mills attempt skirting this tenet – and rest assured, WILL be ultimately held accountable.*** Merely instructing the patient to 'go find a doc' (or even more absurdly having them sign a non-sense 'promise' to do so!) fails the test of reality. California is actually seamlessly completely blanketed with government community ability-to-pay sliding-scale clinic systems that actually function well and provide often MUCH better-than-HMO care. This is part of your service to your patients. If it is what the patient needs, and the physician can not/will not facilitate this required endpoint, then ethically and legally the physician can ONLY decline the case – it is simply beyond their individual realm of expertise/competence/scope of practice. ***ANY 'medical' cannabis practice that issues prop 215 recommendations without requiring and providing or facilitating obtaining full & acceptably relevant on-going care for the patient's problem at hand is irrefutably just an illegal <u>SCRIPT MILL</u> by inherent definition.*** Additionally, you and your chosen legal will need to develop mandated on-going care required documentation standards relevant to your

practice model ‘renewal’ visits. ***This on-going care MUST be documented in the medical record at <u>every</u> ‘renewal’.*** In practice, these issues essentially have NEVER become an obstacle for my patients – we work with our patients to develop a legitimate and compliant rock solid product and commensurate aggregate standard of care. Indeed, a major source of transfer patient outside referrals from those professionals that understand the importance of ‘having it done right’ exists for ‘cleaning-up’ the disastrous prop 215 farces created by these con artists when ‘reality’ (The Courts, etc.) intervene.

## In summary: The Cannabis Physician MUST either gather the patient’s full diagnosis from their regular physicians, do the work-up and assume care themselves, get the patient into appropriate care elsewhere for same, or simply not take on the case and not take their money.

There is considerable confusion regarding permitted quantities of cannabis allowed by prop 215. The answer is straightforward **:** there is no set limit. Prop 215 was purposely authored without any quantity specifications hence limits. Both The Courts and the legislature are constitutionally SEVERLY restricted in their ability to ‘limit the intent of the voter’ under the California ballot initiative process. It becomes the purview of the jury to decide what is appropriate/inappropriate in any specific case. Physicians have been under ‘orders’ from both the California Medical Association as well as legal that have been handling multiple of the Supreme Court cases from day 1 of Prop 215 to stay away from ‘frequency and amount’ least they convert a ‘recommendation’ into a ‘prescription’ – which is NOT valid under 215, leaving the patient ‘uncovered’ as well as leaving the physician as having just ‘aided and abetted’… SB 420 legally *can* establish a ‘screening floor’ amount below which they can legally commit to not prosecute. In one recent 215 case the physicians' recommended amounts calculated to >100 pounds/yr! - rendering the physician, patient, consul, and case a farcical absurdity. Best minimally explain the above to the patient and leave the rest to their legal.

There persists lingering confusion regarding ‘Grower’s Certificates’. In reality, there is NO SUCH legally valid document. The Prop 215 Physician statement is ultimately the **<u>only</u>** legally recognized vehicle for legal cultivation. Some scamming medical practices have actually been known to further rip-off patients peddling such fraudulent ‘up-sell’ ad-on toilet paper. Anyone that attempts such obviously should be avoided, & spread the word to other potential patient-victims as well**:** ‘Quack’. ‘Fraud’. ‘Thief’.

The caregiver issue is a continuing fogged quagmire for all parties concerned. Clearly ‘selling’ completed ‘caregiver’ forms for $50 speaks for itself. Some practices refuse to complete these forms on the grounds that it is not an appropriate physician determination. Others maintain that we are merely acknowledging the patient’s assertion. Whatever final

policy, minimally suggest an operating threshold with no more issued than commensurate with the case at hand.

WHEN the Med Board calls, do be constructive and facilitative to the process. Of course, SAY NOTHING other than acknowledge the call and assure that all is being referred to consul IMMEDIATELY. While their 'med pot' reality is a well-proven track record of entrenched malfeasance, nonetheless assume good faith on the individual inquirer's behalf until proven otherwise. The physician may even be ultimately surprised (pleasantly!) in response. Just because someone else chooses to squander their life in a sewer doesn't mean you have to join. Again, let transparency be your friend. Indeed, totality of transparency ultimately will be the ONLY path through. Just let your legal team be the one that opens the windows. Until then, keep your mouth shut.

And lastly, go to the meetings. And not just the usual stoner testimonial stuff (yes, we know it works…) with maybe a couple of 'consumerized' established headline papers, but rather the *real* meetings – essentially ALL MD/PhD (ICRS & IACM in particular). How can one be a 'specialist' and NEVER have actually attended these basics at least once? Also attend a Med Board meeting. They are held quarterly floating the length of the state, typically near major airports in hotels with a fully functional meeting rate. Attendance becomes especially important the greater the issues one may take with this document. A MOST 'enlightening' experience for any physician. And a very sobering dose of reality. Best sit and watch ONLY. Stay away from the mic until ok'ed by legal. And BE CAREFUL 'over coffee' in the hallway afterwards. MUCH '215' progress has actually achieved by a cadre of physicians that have attended these meetings in the past, in addition to the Med Board Medical Marijuana Practice Guidelines.

R. Stephen Ellis MD
*potdoc.com*
(ver. 9/07a)