

# final minutes

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## State Drug Treatment Court Advisory Committee Meeting

9:30 a.m. • Tuesday, November 26, 2013

Legislative Council Conference Room • 3<sup>rd</sup> Floor Boji Tower

124 W. Allegan • Lansing, MI

### Members Present:

Judge Amy Ronayne Krause, Chair  
Judge William Ervin, Vice Chair (via teleconference)  
Stephanie Drury  
Judge Michael Haley (via teleconference)  
Judge Harvey Hoffman (via teleconference)  
Janette Kolodge (via teleconference)  
Andrew Konwiak (via teleconference)  
Douglas Lloyd  
Judge Brian MacKenzie  
Robert Nida  
Mark Risk (via teleconference)  
Stacy Salon  
Judge Raymond Voet  
Mark Witte

### Members Excused:

Judge Frederick R. Mulhauser  
Dr. Jessica Parks

### I. Call to Order

The Chair called the meeting to order at 9:40 a.m.

### II. Roll Call

The Chair asked the clerk to take the roll. A quorum was present and absent members were excused.

### III. Minutes of the October 22, 2013 Meeting

The Chair directed attention to the proposed minutes of the October 22, 2013 meeting and asked if there were any changes. There were none. **Mr. Nida moved, supported by Mr. Lloyd, to approve the minutes of the October 22, 2013 SDTCAC meeting as presented. There was no objection. The motion was unanimously approved.**

### IV. Committee Vacancy

The Chair opened a discussion of possible candidates the Committee could recommend for the vacant law enforcement representative position. Judge Ervin shared that he will check with the Isabella County sheriff who is actively involved in their juvenile drug treatment court. Judge Haley and Judge MacKenzie will also check around for potential candidates. Mr. Lloyd noted that Sheriff Tom Reich of Eaton County is interested. The Chair also made an announcement that Judge Frederick R. Mulhauser of Charlevoix County has been appointed to the Committee by the Speaker of the House and the Senate Majority Leader. She noted that Judge Mulhauser was not able to attend today's meeting due to the timing of his appointment and the short meeting notice, but she hopes to welcome him to the Committee at the January meeting.

### V. Subcommittee Updates

Cross Assignment Subcommittee: Judge Haley had no update to report.

Defense Attorney Participation Subcommittee: Mr. Risk had no update to report.

Funding Alternative Subcommittee: Judge Hoffman had no update to report.

Juvenile Issues Subcommittee: Mr. Nida had no update to report.

Legislative Subcommittee: Judge Hoffman reported that he participated in a discussion to add language to give more judicial discretion in the mental health court bills. In the end, there was good discussion, but no compromise language was added. House Bills 5020 and 5021 (which lift the sunset on the DWI ignition lock program) have cleared the House and the Senate Judiciary Committee and should be going to the Senate floor in early December. Senate Bill 651 (which provides oversight of ignition interlock companies by the Secretary of State) has moved out of the Senate Judiciary Committee and to the Senate floor.

Medical Marijuana: The Chair noted that the NADCP medical marijuana position statement presented at the July meeting is included in today's meeting material. Mr. Witte explained that the original reason he suggested it be added to the discussion agenda was the fact that it was a NADCP position statement worthy of the Committee's conversation. He noted that, in terms of treatment, he found the items on page six of the resolution helpful and suggested the Committee concentrate on that area of the statement. The NADCP statement is attached to the end of these minutes.

A discussion of the statement and the idea of the SDTCAC taking a position on the statement, in whole or in part, or issuing its own position statement followed. Mr. Risk stated he is in agreement with the NADCP statement, but defers to the Committee to decide what action to take. Judge Voet felt more time is needed to formulate an opinion on the subject and suggested the issue be tabled until the next meeting. Mr. Nida stated that one of his concerns has been criticism in the past of poor research and he wondered if the research quoted in the NADCP statement is the most up-to-date. He noted that it appears the Legislature and the general populace are going in a different direction as a result of the mixed messages being heard. He added he would be more comfortable supporting the different elements of the position statement if they are based upon the most recent research. Judge Ervin shared that, at his last regional probate judges conference, Dr. Fields of Saginaw St. Mary's referenced a study that showed frequent use of marijuana can result in early stages of dementia and Alzheimer between 40 and 50 years old. The Chair asked that a copy of that study be secured for the next meeting. Judge Voet suggested a subcommittee be formed to further explore the subject before the next meeting. The Chair agreed. She appointed Judge Voet Chair of the subcommittee and Judge Haley and Mr. Witte as members.

Recidivism Subcommittee: Dr. Parks was not in attendance at today's meeting. No update was given.

Vision Subcommittee: Judge Bowler was not in attendance at today's meeting. No update was given.

## **VI. Ad Hoc Committees**

### **a. Affordable Health Care Act Impact**

Judge Hoffman reported that the Obama administration came out strongly for having the mental health treatment and substance abuse treatment be treated the same as other illnesses. Mr. Witte added that while the Obama administration did issue final rules for the Affordable Care Act's essential health care provisions, it is still not clear whether those apply to Medicaid in states where there is a waiver from the federal government in place. He noted there has been some discussion to bring lawsuits in the 5 states where these managed care arrangements exist to clarify through federal court intervention that the ACA provisions apply to these managed care waiver states.

Mr. Witte also wanted members to know that that federal regulations stipulate that an individual who is deemed to have a chronic substance abuse disorder is eligible for the State Medicaid plan, not just what is available through the exchanges. The details of the benefits covered under the Medicaid plan are not currently specified by department, however, and concerns have been expressed that services like residential treatment are not specifically listed as a benefit. He has been working with State Medicaid Director Steve Fitton and the Director of the Department of Financial and Insurance Services regarding these concerns. Mr. Witte noted that the Board of Network 180 has sent a letter and he will send a copy of this letter along with the department's response to the Committee clerk. She will forward the correspondence to all of the committee members.

### Other Business

Mr. Witte also shared that House Bill 4891 has been introduced by Representative Matt Lori to create a dedicated funding stream for treatment services. He summarized the provisions of the bill and encouraged members to take a careful look at the bill.

Judge MacKenzie inquired about the status of House Bill 5049 which would allow public access to records of discharge and dismissal proceedings of veterans treatment court programs if a judgment of guilt is entered. Judge Voet shared that the district judges committee had a discussion of the bill and he will send Judge MacKenzie an analysis that was prepared. The clerk will send a copy of the S-1 substitute of the bill to the members.

Mr. Witte provided an update on Public Act 500 of 2012 which moves the 16 coordinating agencies that exist around the state to 10 health plan regions on October 1, 2014. The 10 regions have been defined and he will send a copy of a map identifying the regions to the Committee clerk to distribute to the members.

**b. Veterans Treatment Court**

Judge MacKenzie noted that the legislation passed and he will be attending the first major national veterans' treatment court conference in Washington, D.C. next week. He will be making a presentation on the comprehensive nature of Michigan's statute. The Chair asked that an update on the conference be added to the next meeting agenda.

**VII. Funding Update**

Judge Hoffman had no update to report on behalf of Dr. Parks. Judge MacKenzie shared that Dr. Parks had reported at a recent retreat that there was an increase in funding so that every court that applied for a grant received one. She also noted that it has been a really good year for drug courts.

**VIII. Public Comment**

The Chair asked for public comment. There was none.

**IX. Next Meeting Date**

The Chair announced the next meeting is scheduled for **Tuesday, January 28, 2014.**

January 28, March 25, May 27, July 22, September 23, and November 25 were announced as potential meeting dates in 2014. Alternate dates for two of the meeting dates—March 25 and May 27—may be necessary due to conflicts. The clerk will poll members to find alternative dates.

**X. Adjournment**

There was no further business. The Chair adjourned the meeting at 10:45 a.m.

*(Minutes approved at the January 28, 2014 SDTCAC meeting.)*



## POSITION STATEMENT ON MARIJUANA

### Scope of the Problem

*Whereas* marijuana is the most commonly abused illegal drug among adults and youths in the United States;<sup>1</sup> and

*Whereas* marijuana use rates have risen substantially since 2007;<sup>2</sup> and

*Whereas* social disapproval for using marijuana has been decreasing among teens since 2007;<sup>3</sup> and

*Whereas* softening attitudes about the dangers of marijuana often precede an increase in marijuana use rates;<sup>4</sup> and

*Whereas* more youths are in treatment for marijuana abuse or dependence than for the use of alcohol and all other drugs;<sup>5</sup> and

*Whereas* emergency room mentions for marijuana use now exceed those for heroin and are continuing to rise;<sup>6</sup> and

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<sup>1</sup> Substance Abuse and Mental Health Services Administration. (2012). *Results from the 2011 National Survey on Drug Use and Health: Summary of National Findings* [NSDUH Series H-44, HHS Publication No. (SMA) 12-4713]. Rockville, MD: Substance Abuse and Mental Health Services Administration. Available at <http://www.samhsa.gov/data/NSDUH/2k11Results/NSDUHresults2011.htm>.

<sup>2</sup> *Id.*

<sup>3</sup> Johnston, L.D., O'Malley, P.M., Bachman, J.G., & Schulenberg, J.E. (2010). *Monitoring the future national survey results on drug use, 1975–2009: Vol. I, Secondary school students* (NIH Publication No. 10-7584). Bethesda, MD: National Institute on Drug Abuse (NIDA).

<sup>4</sup> *Id.*

<sup>5</sup> SAMHSA, Center for Behavioral Health Statistics and Quality (2010), Substance abuse treatment admissions by primary substance of abuse according to sex, age group, race, and ethnicity, United States [Data table from Quick Statistics from the Drug and Alcohol Services Information System]. Available at <http://www.dasis.samhsa.gov/webt/quicklink/US10.htm>; See also <http://www.dasis.samhsa.gov/webt/NewMapv1.htm>.

<sup>6</sup> SAMHSA, Center for Behavioral Health Statistics and Quality. (2011). *Drug abuse warning network, 2008: National estimates of drug-related emergency department visits* (HHS Publication No. SMA 11-4618). Rockville, MD: Author.

**Health**

**Whereas** the psychoactive ingredient in marijuana—THC—has increased almost six-fold in average potency during the past thirty years;<sup>7</sup> and

**Whereas** marijuana is addictive for 1 in 9 adults and 1 in 6 adolescents who use the drug;<sup>8</sup> and

**Whereas** marijuana continues to negatively affect attention, memory, learning, and intelligence after the intoxicating effects of the drug have subsided;<sup>9</sup> and

**Whereas** marijuana negatively affects the development of the adolescent brain;<sup>10</sup> and

**Whereas** marijuana contains 50% more carcinogens than tobacco smoke;<sup>11</sup> and

**Whereas** marijuana smokers report serious symptoms of chronic bronchitis and other respiratory illnesses;<sup>12</sup> and

**Whereas** marijuana use during adolescence is directly linked to the onset of major mental illness, including psychosis, schizophrenia, depression, and anxiety;<sup>13</sup> and

**Whereas** the use of marijuana triggers relapse to other drugs of abuse among participants in substance abuse treatment and increases failure rates in Drug Courts;<sup>14</sup> and

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<sup>7</sup> ElSohly M.A., Ross S.A., Mehmedic Z., Arifaf R., Yi B., & Banahan B.F. 3<sup>rd</sup>. (2004). Potency trends of delta9-THC and other cannabinoids in confiscated marijuana from 1980–1997. *Journal of Forensic Sciences* 45(1), 24-30; Mehmedic, Z., Pharm, M., Suman, C., Slade, D., Denham, H. Foster, S., et al. (2010). Potency trends of D9-THC and other cannabinoids in confiscated cannabis preparations from 1993 to 2008. *Journal of Forensic Sciences* 55(5), 1209–1217.

<sup>8</sup> Wagner, F.A., & Anthony, J.C. (2002). From first drug use to drug dependence: developmental periods of risk for dependence upon marijuana, cocaine, and alcohol. *Neuropsychopharmacology* 26, 479–488.

<sup>9</sup> Hall W., & Degenhard L. (2009). Adverse health effects of non-medical cannabis use. *Lancet*, 374, 1383–1391; Schweinsburg, A.D., Brown, S.A., & Tapert, S.F. (2008). The influence of marijuana use on neurocognitive functioning in adolescents. *Current Drug Abuse Reviews*, 1(1), 99–111, 2008.

<sup>10</sup> Giedd, J.N. (2004). Structural magnetic resonance imaging of the adolescent brain. *Annals of the New York Academy of Sciences*, 1021, 77–85.

<sup>11</sup> British Lung Foundation. (2012). *The impact of cannabis on your lungs*. London: Author. Retrieved January 2013 from [http://www.drugsandalcohol.ie/17670/1/The\\_impact\\_of\\_cannabis\\_on\\_your\\_lungs\\_-\\_BLF\\_report\\_2012.pdf](http://www.drugsandalcohol.ie/17670/1/The_impact_of_cannabis_on_your_lungs_-_BLF_report_2012.pdf).

<sup>12</sup> Tetrault, J.M., Crothers, K., Moore, B.A., Mehra, R., Concato, J., & Fiellin, D.A. (2007). Effects of marijuana smoking on pulmonary function and respiratory complications: A systematic review. *Archives of Internal Medicine*, 167, 221–228.

<sup>13</sup> Room, R., Fischer, B., Hall, W., Lenton, S., & Reuter, P. (2010). *Cannabis Policy: Moving Beyond Stalemate*. New York: Oxford University Press & Beckley Foundation Press.

<sup>14</sup> Sechrest, D.K., & Shicor, D. (2001). Determinants of graduation from a day treatment drug court in California: A preliminary study. *Journal of Drug Issues*, 31(1), 129–148.

*Whereas* the use of marijuana reduces the efficacy of rewards for pro-social activities, such as those used in Drug Courts to improve offenders' behaviors;<sup>15</sup> and

*Whereas* the use of marijuana makes addiction to other drugs more likely;<sup>16</sup> and

**Education, Occupational Hazards, and Quality of Life**

*Whereas* marijuana use is consistently associated with poorer academic grades and a reduced likelihood of graduating from school;<sup>17</sup> and

*Whereas* marijuana use impairs the ability to function effectively and safely on the job and increases work-related absences, tardiness, accidents, compensation claims, and job turnover;<sup>18</sup> and

*Whereas* higher levels of marijuana use are associated with lower satisfaction with intimate romantic relationships, work, family, friends, leisure pursuits, and life in general;<sup>19</sup> and

*Whereas* teens may significantly lower their IQs if they smoke marijuana;<sup>20</sup> and

*Whereas* marijuana use by parents is strongly associated with child abuse and neglect;<sup>21</sup> and

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<sup>15</sup> Lane, S., Cherek, D., Pietras C.J., & Tcheremissine O.V., (2004). Acute marijuana effects on response-reinforcer relations under multiple variable-interval schedules. *Behavioural Pharmacology*, 15(4), 305–309.

<sup>16</sup> Schweinsburg A.D., Brown, S.A., & Tapert, S.F. (2008). The influence of marijuana use on neurocognitive functioning in adolescents. *Current Drug Abuse Review*, 1(1), 99–111.

<sup>17</sup> Macleod, J., Oakes, R., Copello, A., Crome, I., Egger, M., Hickman, M., et al. (2004). Psychological and social sequelae of cannabis and other illicit drug use by young people: A systematic review of longitudinal, general population studies. *Lancet* 363(9421), 1579–1588.

<sup>18</sup> NIDA (2012). Marijuana abuse. *NIDA Research Report Series* (NIH Publication No. 12-3859), p. 8.

<sup>19</sup> Fergusson, D.M., & Boden, J.M. (2008). Cannabis use and later life outcomes. *Addiction*, 103, 969–976.

<sup>20</sup> Meier, M.H., Caspi, A., Ambler, A., Harrington, H.L., Houts, R., Keefe, R.S.E., et al. (2012). Persistent cannabis users show neuropsychological decline from childhood to midlife. *Proceedings of the National Academy of Sciences, USA*, 109(40), E2657–E2664.

<sup>21</sup> Goldman, J., Salus, M.K., Wolcott D., & Kennedy, K.Y. (2003). *A coordinated response to child abuse and neglect: The foundation for practice*. Washington, DC: Department of Health and Human Services (HHS), Office on Child Abuse. Available at

<http://www.childwelfare.gov/pubs/usermanuals/foundation/index.cfm>; Sullivan, S. (2000). *Child neglect: Current definitions and models—A review of child neglect research, 1993–1998*. Ottawa, Canada: National Clearinghouse on Family Violence; Perry, B.D. (1998). Incubated in terror: Neurodevelopmental factors in the 'cycle of violence.' In J.D. Osofsky (Ed.), *Children in a violent society* (pp. 124–145). New York: Guilford Press; Kraemer, G.W. (1992). A psychobiological theory of attachment. *Behavioral and Brain Sciences*, 15(3), 493–511.

**Crime and the Criminal Justice System**

**Whereas** marijuana use consistently predicts a greater likelihood of involvement in crime and the criminal justice system;<sup>22</sup> and

**Whereas** long-term marijuana use has been shown to negatively affect the central nervous system in ways that may promote violence;<sup>23</sup> and

**Whereas** a consistent link between frequent marijuana use and violent crime and property damage has been identified among juveniles;<sup>24</sup> and

**Whereas** marijuana impairs motor coordination and reaction time and is the second most prevalent drug (after alcohol) implicated in automobile accidents;<sup>25</sup> and

**Marijuana as Medicine**

**Whereas** several states have passed voter initiatives or legislation declaring marijuana to be “medicine”; and

**Whereas** the American Medical Association and most major health organizations oppose the legalization and medicalization of marijuana; and

**Whereas** smoked marijuana is not an FDA-approved medicine and has not passed standards of safety and efficacy; and

**Whereas** the Institute of Medicine has concluded that smoked marijuana should generally not be recommended for medical use;<sup>26</sup> and

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<sup>22</sup> See Bennett, T., Holloway, K., & Farrington, D. (2008). The statistical association between drug misuse and crime: A meta-analysis. *Aggression & Violent Behavior, 13*, 107–118; See also Pedersen, W., & Skardhamar, T. (2010). Cannabis and crime: Findings from a longitudinal study. *Addiction, 105*, 109–118.

<sup>23</sup> National Research Council. (1993). *Understanding and preventing violence*, Washington, DC: National Academy Press.

<sup>24</sup> Dembo, R., Williams, L., Schmeidler, J., Wish, E.D., Getreu, A., & Berry, E. (1991). Juvenile crime and drug abuse: a prospective study of high risk youth. *Journal of Addictive Disorders, 11*(2), 5–31; Salmelainen, P. (1995). *The correlates of offending frequency: a study of juvenile theft offenders in detention*, Sydney, Australia: New South Wales Bureau of Crime Statistics and Research; Baker, J. (1998). *Juveniles in Crime—Part 1: Participation Rates and Risk Factors*, Sydney, Australia: New South Wales Bureau of Crime Statistics and Research & New South Wales Crime Prevention Division; Friedman, A. S., Glassman, K., & Terras, A. (2001). Violent behavior as related to use of marijuana and other drugs. *Journal of Addictive Diseases, 20*, 49-72.

<sup>25</sup> See DuPont, R., Logan, B.K., Shea, C.L., Talpins, S.K., & Voas, R.B. (2010). *Drugged driving research: A white paper*. Bethesda, MD: NIDA. Retrieved November 2011 from <http://stopdruggeddriving.org/pdfs/DruggedDrivingAWhitePaper.pdf>.

<sup>26</sup> Joy, J.E., Waston, S.J., & Benson, J. A. (Eds.). (1999). *Marijuana and medicine: Assessing the science base*. Washington, DC: National Academy Press.

*Whereas* the future of marijuana as a medicine lies in the development of its individual components delivered in a safe, uninhaled manner;<sup>27</sup> and

*Whereas* one such drug, Sativex, has been approved in several countries for cancer pain and multiple sclerosis spasticity and comprises two of marijuana's active ingredients delivered as a mouth spray; and

*Whereas* other non-smoked medications derived from marijuana, such as Marinol (dronabinol), have also been developed; and

*Whereas* the average user of smoked "medical" marijuana has no chronic illness and is a white male in his mid-thirties with a history of alcohol and drug abuse;<sup>28</sup> and

*Whereas* the vast majority of recommendations for marijuana as medicine are not based on medical necessity, an accurate or complete diagnosis, or consideration of appropriate alternative treatments; and

*Whereas* few of those seeking a recommendation for medical marijuana have cancer, HIV/AIDS, glaucoma, or multiple sclerosis;<sup>29</sup> and

*Whereas* in one state that permits the use of medical marijuana, only 3% of users reported having cancer and less than 1% reported having HIV/AIDS as the basis for seeking marijuana;<sup>30</sup> and

*Whereas* marijuana use has been found to be higher, particularly among juveniles, in states with medical marijuana laws;<sup>31</sup> and

### Legalization

*Whereas* some states are considering the legalization of marijuana; and

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<sup>27</sup> *Id.*

<sup>28</sup> O'Connell, T. & Bou-Matar, C.B. (2007). Long-term marijuana users seeking medical marijuana in California (2001–2007): Demographics, social characteristics, patterns of cannabis and other drug use of 4117 applicants. *Harm Reduction Journal*, 4, 16. Available at <http://www.harmreductionjournal.com/content/4/1/16>.

<sup>29</sup> Nunberg, H., Kilmer, B., Pacula, R.L., & Burgdorf, J.R. (2011) An analysis of applicants presenting to a medical marijuana specialty practice in California. *Journal of Drug Policy Analysis*, 4(1), 1–16.

<sup>30</sup> Colorado Department of Public Health. (2012). Medical marijuana registry program update (as of September 30, 2012). Retrieved January 2013 from <http://www.colorado.gov/cs/Satellite/CDPHE-CHEIS/CBON/1251593017044>.

<sup>31</sup> Cerda, M., Wall, M., Keyes, K.M., Galea, S., & Hasin, D.S. (2012). Medical marijuana laws in 50 states: investigating the relationship between state legalization of medical marijuana and marijuana use, abuse and dependence. *Drug and Alcohol Dependence*, 20(1–3), 22–27; Wall, M., Poh, E., Cerda, M., Keyes, K.M., Galea, S., Hasin, D.S. (2011). Adolescent marijuana use from 2002 to 2008: Higher in states with medical marijuana laws, cause still unclear, *Annals of Epidemiology*, 21(9), 714–716.

*Whereas* nonpartisan analyses by leading research organizations concluded that marijuana legalization would significantly increase marijuana consumption because of a price collapse;<sup>32</sup>

***Now, therefore, be it resolved that the National Association of Drug Court Professionals:***

Opposes the legalization of smoked or raw marijuana; and

Opposes efforts to approve any medicine, including marijuana, outside of the FDA process; and

Supports continued research into a medically safe, non-smoked delivery of marijuana components for medicinal purposes; and

Supports reasonable prohibitions in Drug Courts against the use of smoked or raw marijuana by participants and the imposition of suitable consequences, consistent with evidence-based practices, for positive drug tests or other evidence of illicit marijuana consumption; and

Recommends Drug Courts require convincing and demonstrable evidence of medical necessity presented by a competent physician with expertise in addiction psychiatry or addiction medicine before permitting the use of smoked or raw marijuana by participants for ostensibly medicinal purposes; and

Supports a balanced policy approach to marijuana-related offenses, which does not emphasize either legalization of marijuana or incarceration for marijuana use, but rather offers an evidence-based combination of treatment and behavioral interventions to achieve long-term recovery from marijuana abuse and addiction.

Approved by the External Policy Committee of the NADCP Board on 12-14-12

Approved by unanimous vote by the NADCP Board of Directors on 12-15-12

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<sup>32</sup> Kilmer, B., Caulkins, J.P., Pacula, R.L., MacCoun, R.J., Reuter, P.H. (2010). *Altered state? Assessing how marijuana legalization in California could influence cannabis consumption and public budgets*. Santa Monica, CA: RAND.