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Medical Cannabis Users
Under Canada's Recreational Cannabis Legalization

Lost in the Shuffle

Dick Sobsey
University of Alberta

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Disclosure

- I have a personal interest in medical cannabis.
- My son uses CBD (Cannabidiol) to treat a severe seizure disorder that has been poorly controlled by available anticonvulsant medication. (More about this later.)

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Task Force Recommendations

"there is agreement that many individuals suffering from a variety of serious medical conditions derive therapeutic benefits from both THC and CBD"

"provide patients with reasonable access to cannabis for medical purposes, such that they can acquire and use cannabis to meet their needs while not facing undue constraints of cost or choice."

The Task Force on Cannabis Legalization and Regulation. (2016). *A Framework for the Legalization and Regulation of Cannabis in Canada*. Ottawa: Health Canada

But…. What is reasonable access?
&
What are undue constraints of cost?

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Government has no idea of cost

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What are actual costs for medical cannabis patients?

What is reasonable?

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Is this a real ethical concern or just a bunch of complainers?

Photo from Canadians for Fair Access to Medical Marijuana

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Reasonable Access? Affordability?

Intractable Seizures	55 Kilograms ALBERTA 240 mg per day	62 Kilograms QUEBEC 360 mg per day
CURRENT COST	$11,079 per Year Includes $527.58 Tax (5% Tax)	$16,543 per year Includes $2,370,17 Tax (14.975% Tax)
With Proposed excise tax and Sales Tax	$12,187 per Year Includes $1,635.51Tax (15.5% Tax)	$20,017 per year Includes $4,189.93 Tax (26.5% Tax)
Gold Standard Dosage 20 mg per KG	1100 mg per day $50,272 per year Includes $6,746.47 Tax (15.5% Tax)	1240 mg per day $62,054 per year Includes $12,988 Tax (26.5% Tax)

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Statistics Canada: September 2017

- **10,433 Medical Practitioners**
- **235,621 clients**
- 913 grams per year
- **$6200 average per year**
- **Sales tax $310 Alberta -$928 Quebec**
- **Minimum excise tax $913 (14.7%)**
  - With sales tax on tax **$956 Alberta-$1,037 Quebec In new added taxes**
- **20.4% total Tax Alberta / 31.7% Quebec**

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Canadian Pharmacists Association

- CPhA recommends that the federal Excise Tax Act be amended to **zero-rate medical cannabis,** in alignment with the tax treatment of prescription drugs and drug dispensing fees.
- ***Recreational marijuana* should be subject to sales tax.**
- Price differentiation between medical cannabis and recreational marijuana will also help to ensure that medical cannabis patients are not **diverted from the medical system for reasons of cost or convenience, which would remove them from the supervision and oversight of their prescribing** physician and other health care professionals, including pharmacists.

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Task Force Recommendations

- "We suggest that **variable tax rates or minimum prices linked to THC level (potency)**, similar to the pricing models used by several provinces and territories for beer, wine and spirits, should be applied **to encourage consumers to purchase less-potent products**." (p.24)
  - The Task Force on Cannabis Legalization and Regulation. (2016). *A Framework for the Legalization and Regulation of Cannabis in Canada*. Ottawa: Health Canada

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Two Issues

- Current plans for the legalization of medical cannabis will result in two problems.
  - Failure to base taxation on THC potency will push growers, retailers, and consumers toward stronger and stronger strains.
  - Proposed "dual systems" disadvantage medical users and will interfere with access and medical supervision for those who need it most.

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CLAIM: Necessary to Impose Tax on Medical Cannabis Because Non-Medical Users Will Make False Claims of Medical Need

- **Unethical: Imposes penalties on those with real medical needs instead of enforcing the law.**
- The only harm done by differential taxation is harm to tax revenue.
- The harm done by taxing medical and recreational consumers the same is harm to individuals with real health problems including:
  - Thousands of dollars per year in increased costs
  - Being priced out of getting the treatment they need
  - Being driven out of the medical market with loss of medical supervision

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CLAIM: Necessary to Impose Tax on Medical Cannabis Because Non-Medical Users Will Make False Claims of Medical Need

- **Unproven: Some probably will but this may not be a common issue.**
  - Doctors must (a) certify real medical need and (b) prescribe medication.
  - Many simply refuse
  - Others charge (often $250-$1,000) for "uninsured paperwork"
  - Those who are serious typically require regular monitoring, laboratory work,
  - Many Medical Cannabis products are not suitable for recreational use.
  - Locked in to producers etc, can't take advantage of market.

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Not Recreational

$150 contains 1098 mg THC
$0.14 per mg + tax
+$15 excise +$8.25 GST = $173.25
+$15 excise + $24.71 HST= $189.71
$0.16 to $0.17 per mg with tax

$130 contains 60 mg THC
$2.17 per mg without tax
+$13 excise + $7.15 GST = $150.15
+$13 excise + $21.41 GST = $164.41
$2.50 - $2.74 per mg with tax

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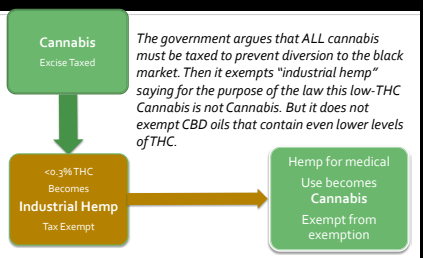
Exempt from Exemption



The government argues that ALL cannabis must be taxed to prevent diversion to the black market. Then it exempts "industrial hemp" saying for the purpose of the law this low-THC Cannabis is not Cannabis. But it does not exempt CBD oils that contain even lower levels of THC.

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Proposed "Separate" Frameworks

	Recreational	Medical
Products Available	Wide Variety	Same Products
Taxation	10% Excise + GST+ PST	Same Tax
Access Requirements	Adult	**Registration Required** **Medical document/Prescription Required** **MD determines vendor** **Locked in to vendor** **MD determines which which product** **MD determines how much per month** **MD may require visits for medical supervision** **MD may require lab work** **MD may charge for non-insured services**

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CLAIM: Other Jurisdictions Treat and Tax Medical and Recreational Cannabis the Same!

- **FALSE!**
  - **California** 7.25% state tax + 15% excise tax recreational- medical is exempt
  - **Colorado** 2.9% state tax + 10% excise recreational – medical exempt from excise. If you earn less that 185% of Federal Poverty Guidelines, you can be exempted from sales tax on medical cannabis
  - **Maine** 10% sales tax recreational – Medical is tax free
  - **Massachusetts**: 10.75% recreational – Medical is tax free
  - **Nevada:** 10% excise recreational – 2% excise medical
  - **Oregon:** 17% State + 3% optional municipal – Medical is tax free
  - **Washington:** 37% excise + 8% state tax – Medical exempt from state tax
- **At least 17 other states have limited access laws that do not permit recreational use but permit low-THC and CBD Cannabis products**

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Regulated based on potency

TAXED BY POTENCY

- Most spirits 40-60%
- Wine 12-15%
- Beer 4-7%
- Vinegar 0.1-2.0%

TREATED DIFFERENTLY

- Opium- Controlled
- Poppy Seeds
  - **Exempt**

- Washington State: Different rules and Taxes

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CLAIM: To Avoid the Heavy Costs and Taxes, You can Grow Your Own

- The 4, up to 1 metre, plants allowed would not produce enough.
- Extracting CBD requires expensive and sophisticated lab equipment or wastes about half of the CBD.
- Every batch of oil requires lab testing to determine strength of CBD, THC, etc.

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Potential Harms

MEDICAL TAXED	MEDICAL UNTAXED
▪ Reduced access to those with real medical needs ▪ Reduced medical supervision of those with genuine healthcare needs. ▪ Those with real medical needs will be pushed out into the recreational system for reasons of cost and convenience.	▪ Some recreational users will avoid paying tax OR ▪ Government will have to determine who are legitimate medical users and who are pretenders

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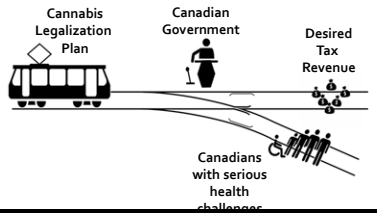
Trolley Problem

Who takes the hit?



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Leap before you look strategy…

- The current plan was developed without consideration of how medical cannabis patients would be affected.
- AND with knowledge that it would have a negative impact on these patients.
- When these issues were pointed out the response has been
  - ***"The medical system we're going to look at once we've changed the system."*** Justin Trudeau, 15 Dec 2017, on Breakfast TV

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Poisoned-Well Strategy

- The government's plan amounts to a poisoned well strategy. To prevent unwelcome intruders from drinking from the well, it poisons the water so no one will drink from it.
- The so-called separate frameworks add greater costs and more intrusive requirements for medical users while offering no benefits to drive people of the medical system.

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Do we have time for discussion?

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CBD: World Health Review

- "The clinical use of CBD is most advanced in the treatment of epilepsy. In clinical trials, CBD has been demonstrated as **an effective treatment for at least some forms of epilepsy**". *Dravet & Lennox-Gastaut Syndromes*
- "Across a number of controlled and open label trials CBD of the potential therapeutic effects of CBD it is generally well tolerated, **with a good safety profile"**
- "The potential toxic effects of CBD have been extensively reviewed [49] with a recent update of the literature. [50] In general, CBD has been found to have **relatively low toxicity**"
- After extensive study in animals and humans there was **no evidence of abuse potential**. results of this analysis demonstrated that CBD was placebo- like on all measures
  - *WHO, CBD, PreReview Report Expert Committee on Drug Dependence, December, 2017*

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National Academies of Science

- **There is conclusive or substantial evidence that cannabis or cannabinoids are effective:**
  - **For the treatment of chronic pain in adults**
  - **As antiemetics in the treatment of chemotherapy-induced nausea and vomiting**
  - **For improving patient-reported multiple sclerosis spasticity symptoms**
- **There is moderate evidence that cannabis or cannabinoids are effective for:**
  - **Improving short-term sleep outcomes in individuals with sleep disturbance associated with obstructive sleep apnea syndrome, fibromyalgia, chronic pain, and multiple**

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National Academies of Science

- **There is limited evidence that cannabis or cannabinoids are effective for:**
  - Increasing appetite and decreasing weight loss associated with **HIV/AIDS**
  - Improving clinician-measured **multiple sclerosis spasticity symptoms**
  - Improving symptoms of **Tourette syndrome**
  - Improving anxiety symptoms, as assessed by a public speaking test, in individuals with **social anxiety disorders**
  - Improving symptoms of **posttraumatic stress disorder**
  - A statistical association between cannabinoids and Better outcomes (i.e., mortality, disability) after a **traumatic brain injury or intracranial hemorrhage**.
  - National Academies of Sciences, Engineering, and Medicine. 2017. *The health effects of cannabis and cannabinoids: The current state of evidence and recommendations for research*. Washington, DC: The National Academies Press. doi: 10.17226/24625.

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Obstacles to clinical trials

- Lack of financial incentive for drug companies to fund research
- Tight government controls on Cannabis products.

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Trial of Cannabidiol for Drug-Resistant Seizures in Dravet Syndrome

- **Devinsky, O., Cross, J. H., et al. (2017). *New England Journal of Medicine*, *376*(21), 2011-2020.**
- All participants already taking 1 to 5 anti-convulsants
- 20mg/Kg Cannabidiol divided into 2 doses
- The baseline convulsive-seizure frequency was a median of 12.4 convulsive seizures per month (range, 3.9 to 1717)
- Under Treatment with CBD the frequency of seizures was reduced to a median of 5.9 per month.
- 43% reduced seizure frequency by more than 50%
- 5% became seizure free (versus 0% in the placebo group)
- There were some adverse events but safety profile looks good so far.