

RESOLUTION NO. 06-0846

DATED: September 26, 2006

**RESOLUTION OF THE SONOMA COUNTY BOARD OF SUPERVISORS
ENACTING COUNTY MEDICAL MARIJUANA POSSESSION AND
CULTIVATION GUIDELINES AS AUTHORIZED BY CALIFORNIA HEALTH
AND SAFETY CODE SECTIONS 11362.5 AND 11362.77**

WHEREAS, in 1996, the voters of the State of California approved Proposition 215, also known as the Compassionate Use Act of 1996 ("Compassionate Use Act"), creating California Health and Safety Code Section 11362.5;

WHEREAS, California Health and Safety Code Section 11362.5, subd.(d) provides that punishment for marijuana possession and cultivation pursuant to Health and Safety Code sections 11357 and 113578 "shall not apply to a patient, or to a patient's primary caregiver, who posses or cultivates marijuana for the personal medical purposes of the patient upon the written or oral recommendation or approval of a physician;"

WHEREAS, in response to the enactment of the Compassionate Use Act, the Sonoma County Law Enforcement Chiefs' Association ("Chief's Association ") established guidelines to provide for consistency among Sonoma County law enforcement agencies in handling cases involving the possession and/or cultivation of marijuana for medical purposes;

WHEREAS, when originally enacted, the Chief's Association adopted medical marijuana guidelines which allowed for the possession of three (3) pounds of processed marijuana, and for cultivation of up to 99 plants within a growing canopy of 100 square feet, for medical marijuana uses consistent with the Compassionate Use Act;

WHEREAS, effective January 1, 2004, the State Legislature enacted California Health and Safety Code Section 11362.77 to clarify the scope of the Compassionate Use Act by, among other things, designating the maximum amounts of marijuana a qualified patient or primary caregiver may possess or cultivate without legal sanction;

WHEREAS, Health and Safety Code Section 11362.77 specifically authorizes counties to establish medical marijuana guidelines which allow qualified medical marijuana patients or their primary caregivers to exceed the default threshold of the State of California of eight (8) ounces of dried marijuana in addition to no more than six (6) mature or twelve (12) immature marijuana plants per qualified patient;

WHEREAS, it is the intent of the Board of Supervisors to help insure that all seriously ill residents within Sonoma County can obtain and use marijuana for medical purposes where that medical use has been deemed appropriate and recommended or approved by an attending physician, licensed to practice medicine in the State of California ("attending physician"), who determined that a patient's health would benefit from the use of cannabis in the treatment of a serious medical condition including, but not limited to, cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis, and migraines;

WHEREAS, it is the further intent of the Board of Supervisors that qualified patients, persons with valid identification cards, and primary caregivers, as well as those primary caregivers and patients whom associate within the State of California to collectively or cooperatively cultivate marijuana for the purpose of treating serious medical conditions, under the direction and approval of an attending physician, and within the Guidelines contained in this Resolution, should not be, solely on that basis, subject to arrest, criminal prosecution or other sanction;

WHEREAS, limited federal research and cultivation studies indicate that three (3) pounds of cannabis is sufficient, on an annualized basis, to meet most patient treatment needs and that this amount generally can be produced by plants in a growing area not larger than 100 square feet;

WHEREAS, the Sonoma County Board of Supervisors finds and determines that three (3) pounds of dried cannabis, or its conversion per year, is a sufficient amount to meet the medical needs of most qualified marijuana patients, absent a demonstrated medically recommended need for a greater amount;

WHEREAS, the Sonoma County Board of Supervisors finds and determines that a one-hundred (100) square foot canopy of mature female cannabis plants generally is capable of yielding three (3) pounds of dried and processed cannabis bud per year regardless of the number of marijuana plants;

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WHEREAS, this Resolution does not address, nor is it intended to require, any accommodation of any medical use of marijuana on the property or premises of any educational facility, correctional facility or place of employment, or during the hours of employment;

WHEREAS, this Resolution does not address, nor is it intended to limit or restrict the enforcement of any state or federal law;

WHEREAS, notwithstanding this Resolutions and the Guidelines set forth herein, qualified patients and primary caregivers still may be subject to prosecution for marijuana possession or cultivation under federal law;

WHEREAS, through this Resolution, the Sonoma County Board of Supervisors exercises its authority under California Health and Safety Code Section 11362.77 to enact medical marijuana guidelines regarding the maximum amount of cannabis that qualified medical marijuana patients and/or their primary caregivers may possess or cultivate;

THEREFORE; IT IS HEREBY RESOLVED, that pursuant to its authority under California Health and Safety Code Section 11362.77, the County of Sonoma adopts the following Medical Marijuana Possession and Cultivation Guidelines:

Sonoma County Medical Marijuana Possession and Cultivation Guidelines

A. Possession. A qualified patient, or a person holding a valid identification card, or the designated primary caregiver of that qualified patient or person, may possess amounts of marijuana of up to three (3) pounds of dried cannabis or conversion per year.

B. Cultivation. A qualified patient or a person holding a valid identification card or a designated primary caregiver, or primary caregivers or qualified patients whom associate collectively or cooperatively, may also cultivate cannabis in an amount not to exceed more than one-hundred (100) square feet total garden canopy, per qualified patient, as measured by the combined vegetative growth area.

C. Plants. A qualified patient or a person holding a valid identification card or a designated primary caregiver, or primary caregivers or qualified patients whom associate collectively or cooperatively, may cultivate cannabis in an amount not to exceed more than thirty (30) plants per qualified patient. The authorized thirty (30) plants must be grown within the one-hundred (100) square foot total garden canopy per qualified patient.

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D. Physician's Recommendation. A qualified patient or a person holding a valid identification card, or the designated primary caregiver of that qualified patient or person must meet all of the above guidelines unless a qualified medical marijuana patient or primary caregiver has an attending physician's written, dated and signed recommendation that the quantities described in Subsection A through C of these Guidelines are not sufficient to meet the patient's needs to treat a serious medical condition. In that instance, the qualified patient or caregiver may possess and/or cultivate an amount of marijuana consistent with the attending physician's written recommendation. Under these Guidelines, an attending physician's recommendation or approval shall remain effective not longer than two years from the date of issuance and shall not renew automatically.

E. Posting. The name, designation, and contact information of the qualified medical marijuana patient(s) and/or the primary caregiver(s) shall be and remain posted at any growing site where medical marijuana is being cultivated. In addition, a copy of the physician's written recommendation, including name of prescribing doctor, shall also be posted if the amount of marijuana cultivated exceeds the amounts stated in Sections A through C of these Guidelines.

F. Primary Caregiver Status. A primary caregiver's designation and proof of status shall be in the possession of the caregiver whenever he or she possesses or cultivates marijuana under these Guidelines.

G. Definitions. All words and phrases in this Resolution and these Guidelines shall have the same meaning and be construed in a manner consistent with California Health and Safety Code Section 11362.7.

H. Severability. If any part of this Resolution, including the Guidelines set forth herein, shall be held invalid, the remainder of the Resolution, to the extent it can be given effect, shall not be affected thereby, and to this end each part of this Resolution is severable.

I. Effective Date. These Guidelines shall be deemed effective as of November 1, 2006.

SUPERVISORS:

BROWN _____ KERNS _____ SMITH _____ REILLY _____ KELLEY _____

AYES 5 NOES _____ ABSTAIN _____ ABSENT _____