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- Me:
  - × authorized medical cannabis patient since 2009
  - × representative, Patients United
  - × chair for the Cannabis Alliance patient committee

- I would like to comment on the tax preference for:
  - × Medical Cannabis Sold to Qualifying Patients under RCW 82.08.9998(1)(a), RCW 82.12.9998(1)(a). (this is the largest medical cannabis tax preference)

- Question at hand:
  Should the Legislature continue the tax preference because they provide tax relief to medical cannabis patients?
  - – The word "continue" makes this question confusing because there has been a difference between what the preference under the law has been, and what the practice has been.
    For clarity, let me state clearly what I support and what I do not support.

- **What I am for:**
  - × The tax exemption for "medical cannabis", with the changed language in SB 5298 that should have been implemented by DOR on January 2020.
    That means I support a sales tax exemption on DOH Compliant medical cannabis product (WAC 246-70).
    [aka: DOH's definition of "beneficial for medical use", based upon a definition of medical cannabis by quality (testing) per RCW 69.50.75 (4)(c)] because:
    - Because quality, medically-appropriate product is what patients say they most need, and the lack of it within the regulated system is what patients most often cite when explaining why they seek access from outside the 502 system.
    - DOH Compliant medical cannabis products are more expensive than most recreational products, and thus unaffordable for patients, who tend to be poor due to their illnesses. Tax exemptions should focus on the products that patients need most, and are least affordable, not on the cheap, barely tested, less appropriate, easily available recreational products.
    - A tax exemption that specifically targets DOH Compliant products will incentivize the production and knowledge of DOH Compliant products – that are large problem areas.

- **What I do not support is continuing the current practice of applying the tax exemption to all cannabis products.** [based upon LCB's 'definition' of "beneficial for medical use", a use-based description that includes any cannabis product]
  - ⇒ In that sense, I support the committee's recommendation to update the guidance to reflect 2019 legislative changes.

  I oppose continuing the current practice (a sales tax exemption for all cannabis products) because:
  - Recreational product is an inappropriate substitute for DOH Compliant product because it is not tested for pesticides and heavy metals, making it particularly risky for medically vulnerable people.
    Washington State continues to be the only state that does not require testing for pesticides, heavy metals and total molds for recreational products.
  - Granting a sales tax exemption on any product disincentivizes Department of Health Compliant cannabis and other, more appropriate medical products, while incentivizing high-THC, untested, lower-grade recreational products.
  - Recreational cannabis is cheap, usually cheaper than black market medical product, and is already generally affordable.
  - In my view, the practice of applying a sales tax exemption to all cannabis product runs counter to the law (SB 5052, RCW 69.50.375), not only since the passage of SB 5298, but since September 2016. Continuing administrative practices that are contrary to legislative and administrative law is a bad habit to normalize.
  - Initially, a sales tax exemption on all products will cost much more than focusin on DOH product while causing all of the disadvantages listed above. (See disagreements with committee report).

Therefore, I urge the commission to recommend the following policies:

- ✓ Support sales tax exemptions for:
  1. DOH Compliant (246-70) product for patients who are registered in the patient database, in accordance with the 2019 change affecting RCW 82.08.9998(1)(a) and RCW 82.12.9998(1)(b).
  2. **Do not recommend** continuing the practice of extending a sales tax exemption on all cannabis products, per the impossibly vague description established by LCB in WAC 314-55-080(3)(d).
  3. Recommend continuing to sell low-THC products to patients holding recognition cards per RCW 82.08.9998(1)(b) and RCW 82.12.9998(1)(b).
  4. Support the Commission report's guidance that DOH update its guidance to reflect 2019 changes.

5. I also recommend adopting SB 5004, which would grant an excise tax exemption on DOH Compliant product for patients who hold recognition cards –which is not up for consideration for this study, but I am throwing it out there anyway because it is topical and a great idea.
   Passing SB 5004 is the single best thing the Legislature could do to incentivize medical-grade product, make medical-grade product affordable for patients, and undermine the medical black market while bringing patients into the regulated market.
   Here is the fiscal note. Passing this bill would bring the typical retail price of DOH product down from $17/gram to $11/gram for registered patients who request the exemption.

- I disagree with the report in three aspects:
  1. I disagree that beneficiary savings will be the same initially when the change is made to exempt all cannabis products under the current practice, to only DOH Compliant products under (1)(a). There should be a substantial reduction in beneficiary savings during the first year, well below $4.9 million for the first biennium. The limitation will be due to the current lack of available inventory of DOH Compliant/246-70 in the system. It will take time to ramp up that inventory.
  2. I disagree with the report's opinion that the availability of medically-endorsed retailers significantly limits use of the tax preference. The report correctly identifies that retailers often give discounts in lieu of tax exemptions, limiting the effect.
     Based upon consistent results of patient surveys and my personal experience with the market, the most significant barrier to use of the tax preference is patient mistrust of participating in the patient registry –which is a reluctance that does not exist in other states.
  3. The report correctly identifies that eleven of the other states that have legalized recreational and medical cannabis require patients to register. However, this observation could be very misleading because those states also provide for recreational adult home growing up to 12 plants with an average right of six plants, which does not require registration, so that acts as a significant loophole to patient registration. And, as the report correctly identifies, those states have lower tax rates, most lower than Washington's tax exemption; and their recreational product is tested, so the comparison is not apt.

The current system is not working well.

Things to understand.

- **The cheapest cannabis in the regulated system is cheaper than the cheapest cannabis in the medical black market. Price alone is not the issue.**
  Cannabis in the 502 market can easily be purchased at a cost of $50 to $100 per ounce. No such equivalents exist in the medical black market. These cheap regulated ounces are arguably unfit for human consumption, but they are widely available.
  By contrast, a DOH-Compliant equivalent quality ounce costs $150 in the black market, while a DOH Compliant quality ounce in the regulated market costs $280 to $360. This is where the cost issue lies for patients.

- **Patients do not feel that the current system is meeting their needs. Price alone is not high on their list of shortcomings. Where price is an issue, patients most often cite the 37% excise tax.**

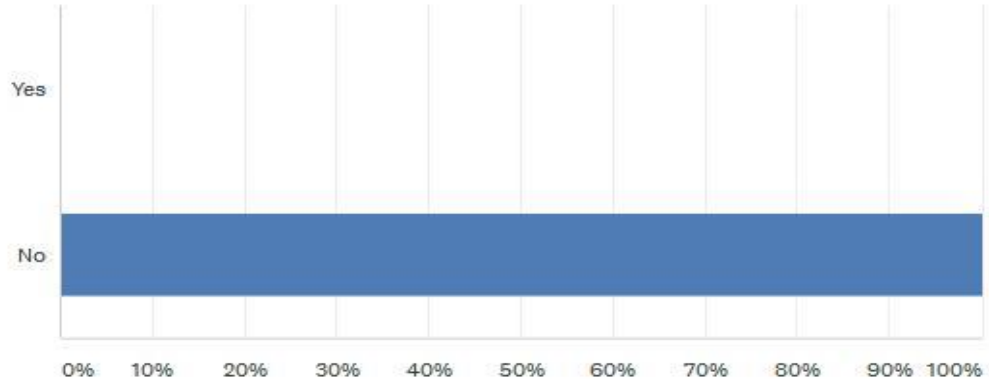
	2019	2017
1. Provide legalization of medical growing and increased possession amounts rather than merely offering "affirmative defense" and "arrest protection.	**1**	**1**
2. Legal vulnerability of declaring patient status	**2**	**5**
3. Elimination or reduction of excise tax for patients.	**3**	**4**
4. Availability and affordability of high-dose edibles.	**4**	**2**
5. Availability of DOH Compliant product	**5**	**7**
6. Permit recreational home grows	**6**	**3**
7. General availability of appropriate products	**7**	**6**

- **This lack of appropriate access is keeping a significant number of patients into the black market.**

How do you seek access to cannabis for your medical use now?

	2021	2019	2017
I do not buy 502 product.	**63.42%**	**50.51%**	**57.98%**

- ***Do you feel that the current medical scheme in Washington State provides adequate and appropriate access to cannabis for your medical needs?***

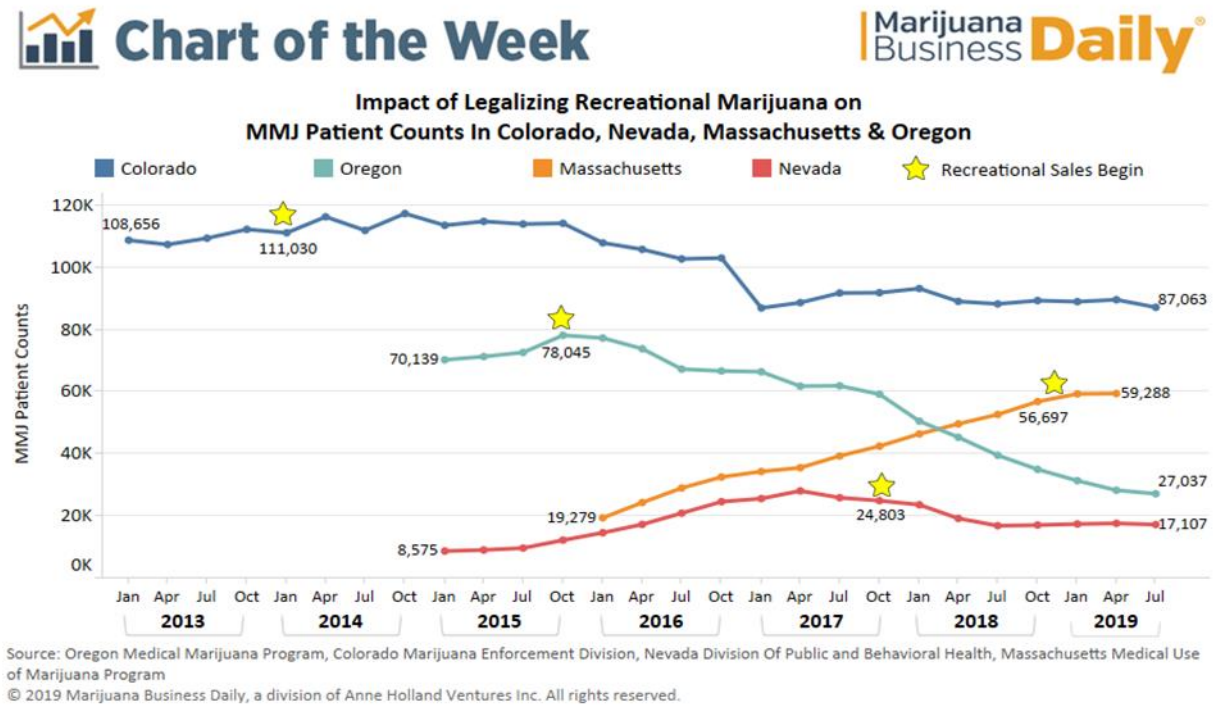


- **Qualifying patients are not participating in the formal Washington State system at a rate that is at stark contrast to the participation rates of other states.**

	2021	2019	2017
a valid medical authorization.	68.75%	59.07% 127	59.66% 71
a DOH recognition card as a result of being registered in the patient database.	12.50%	09.68% 21	17.65% 21
neither.	18.75%	31.8% 69	22.69% 27

Participation	WA State 2019	Washington State 2017	Colorado 2017
number of **registered** medical cannabis patients	14,293* (2020) 11.600*	17,809* (2018) 15,400*	92,689 (2019) 87,063
estimated # of qualifying patients*	161,000 - 193,546	153,000” - 184,000	117,000
estimated state populations	7,530,522 (2018)	7,159,144	5,540,545

*Apparently these numbers were over-estimates by LCB. Now DOH disagrees with them. These numbers were reported to the Commerce and Gaming committee during September work sessions. See the graph below for DOH’s more recent (and lower) estimates of the number of patients registered in the medical cannabis patient database. I also believe DOH’s numbers to be inaccurate.
For some reason, Washington State is unlike other states in that the number of registered patients cannot be easily determined on-demand.



Source: Oregon Medical Marijuana Program, Colorado Marijuana Enforcement Division, Nevada Division Of Public and Behavioral Health, Massachusetts Medical Use of Marijuana Program

The current system is not working.
Recommending continuing more of the same does not make sense. Tax incentives need to be more targeted.

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