

ILLINOIS STATE MEDICAL SOCIETY

**Resolution 08.2022-08
(A-23)**

Introduced by: Tamara Olt, MD, ISMS Member
Subject: Reclassify criminal penalties for small-scale drug possession from a felony to a misdemeanor
Referred to: Medical Legal Council

1 Whereas, in the United States, addiction and drug use are treated primarily as
2 criminal justice matters rather than medical and public health issues; and
3

4 Whereas, criminalization and punishment for drug possession has failed to
5 decrease drug misuse and has not stopped the overdose epidemic.¹ Since 2013, more
6 than 23,000 Illinois residents have died from a drug overdose, and the number of
7 overdose deaths has increased almost every year^{2, 3}; and
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9 Whereas, evidence-based community treatment has been found to be more
10 effective in meaningfully addressing substance use disorder⁴; however, there are still
11 barriers to accessing this treatment, especially in communities that have the most need;
12 and
13

14 Whereas, in Illinois, possessing any amount of a controlled substance is classified
15 as a felony⁵; and
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17 Whereas, from 2016 to 2018, 20,000 people in Illinois were convicted of felonies
18 for possessing small amounts of drugs, and 7,500 were imprisoned⁶; and
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20 Whereas, among those incarcerated in jail and prisons nationally, only an
21 estimated 7-to-20% of those in need of clinical treatment actually receive those services
22 during their incarceration⁷. In Illinois, only about 17% of those in need of drug treatment
23 accessed it while incarcerated⁸; and
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25 Whereas, across the United States, drug overdoses are the leading cause of death
26 for people recently released from prison⁹ and individuals re-entering the community
27 from correctional settings are almost 130 times more likely to die of an overdose than
28 the general population¹⁰; and
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30 Whereas, people returning home from prison are 8 to 18 times more likely than
31 non-imprisoned people to commit suicide¹¹; and

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33 Whereas, criminalizing substance use stigmatizes individuals who use drugs,
34 which can make it more difficult for people to seek out treatment or other health care
35 services¹²; and

36
37 Whereas, felony records prevent people from accessing stable housing,
38 education, and gainful employment¹³; and

39
40 Whereas, while drug use is a reality in all communities, the harms of
41 criminalizing drug use fall disproportionately on Black Illinoisans¹⁴; and

42
43 Whereas, in 2021 Dr. Nora Volkow, Director of the National Institute on Drug
44 Abuse (NIDA), wrote: “We have known for decades that addiction is a medical
45 condition—a treatable brain disorder—not a character flaw or a form of social deviance.
46 Yet, despite the overwhelming evidence supporting that position, drug addiction
47 continues to be criminalized. The US must take a public health approach to drug
48 addiction now, in the interest of both population well-being and health equity.”¹⁵; and

49
50 Whereas, low-level drug possession is already classified as a misdemeanor in
51 more than 20 states¹⁶; and

52
53 Whereas, reducing punishment for small-scale drug possession from a felony to
54 a misdemeanor is recommended by the World Health Organization, the American Public
55 Health Association, the Illinois Association for Behavioral Health, the Illinois Public
56 Health Association, the Illinois Public Health Institute, the Cook County Department of
57 Public Health, the Champaign-Urbana Public Health District, the AIDS Foundation
58 Chicago, and the Health and Medicine Policy Research Group; therefore, be it

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60 RESOLVED, that it is the position of ISMS that efforts to treat addiction and
61 reduce the harms associated with drug use should prioritize public health strategies over
62 criminal justice penalties; and be it further

63
64 RESOLVED, that the Illinois State Medical Society (ISMS) should create policy
65 that supports the passage of legislation to reclassify criminal penalties for small-scale
66 drug possession from a felony to a misdemeanor in the State of Illinois, and improve
67 access to evidence-based treatment for people experiencing substance use disorders.

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Fiscal Note:

Existing ISMS policy related to this issue:

ISMS supports the following policies related to medical marijuana dispensing organizations: 1. As part of the licensing requirements for marijuana dispensing entities, a detailed explanation of cannabis' adverse effects and risks should be disseminated to each individual at the time of dispensing. 2. Such patient education material should include: A) Updated information about the purported effectiveness of various forms and methods of medical cannabis administration; B) Updated information about the purported effectiveness of strains of medical cannabis on specific conditions; C) Current educational information issued by IDPH about the health risks associated with the use or abuse of cannabis; D) Whether possession of cannabis is illegal under federal law; E) Information about possible adverse effects; F) Prohibition on smoking medical cannabis in public places; and G) Any other appropriate patient education or support materials (68 Ill. Adm. Code 1290.425). 3. Receipt of such patient education information should be individually documented by the dispensing organization. 4. The written information should be standardized and approved by the Illinois Department of Public Health (IDPH). (HOD 2015; Reaffirmed 2016)

The Illinois State Medical Society will continue to: (1) discourage and condemn illegal drug use; (2) encourage physicians to do all in their power to discourage the use of illegal drugs in their community; and (3) refuse to assist anyone in obtaining drugs for non-medical use. (HOD 1992; Last BOT Review 2014)

ISMS supports a total ban on edible recreational cannabis products. (2019 Annual Meeting)

ISMS does not endorse the legalization of the possession or use of marijuana. (HOD 1976; Last BOT Review 2011)

Board of Trustees approved causing the introduction of legislation to address the issues of opioid prescribing, diversion, overdose and addiction, as presented in the report. (BOT 2015-JAN)

ISMS supports and encourages the education of physicians regarding current, evidence-based therapeutic use of cannabinoids and expanded efforts at all levels of medical training and practice in education about addiction, and supports continued research in controlled investigational trials on the therapeutic efficacy of cannabinoids, including methods of administration and addictive potential. (HOD 2006; BOT 2006-OCT; Last BOT Review 2011)

ISMS endorses the following principles to regulate recreational marijuana, should legislation be proposed and enacted that legalizes its use in Illinois: 1. The stance of the State toward recreational marijuana should be that, because of health concerns, promotion of use should be as minimal as possible. 2. All forms of recreational marijuana that might be attractive to children (e.g. soda, candy, cookies, flavored marijuana) should be prohibited. 3. The State should maintain strict control over all direct and indirect forms of marketing, advertising, promotion and sponsorships, in order to avoid marketing that appeals to children. Advertising limitations, consistent with anti-smoking norms, should be maintained and risk perception should be high. Advertising other than at the website of the business and at the physical location of the business should be prohibited. 4. If the State decides to allow more advertising, ISMS advocates for:

- Limiting any marketing within 1,000 feet of places that children and young adults frequent, such as schools, childcare facilities, parks, on public spaces, bus/train stops and college campuses.
- Limiting the number and size of dispensary signs on premises.
- Prohibiting promotional giveaways, discounts, coupons or games.
- A prohibition on the depiction of persons under the age of 35 years.
- Prohibiting any health or therapeutic claims.
- Prohibiting mass marketing campaigns (including TV, internet, radio) toward audiences that may be comprised of a significant amount of minors.
- The inclusion of warning labels on any and all marketing pieces.

5. The State should maintain regulation over packaging such that the package cannot be used as a marketing tool. Packaging should prominently display the potency of the product by indicating the quantities of the active ingredients tetrahydrocannabinol (THC) and cannabidiol (CBD). Packaging should be in a single dull color chosen by the state with one format for the packaging. Lettering should be in one font with restrictions on the font size. A health warning should be on each package. For cannabis products: "GOVERNMENT WARNING: THIS PRODUCT CONTAINS CANNABIS, A SCHEDULE I CONTROLLED SUBSTANCE WITH A HIGH POTENTIAL FOR ABUSE AND THE POTENTIAL TO CREATE SEVERE PSYCHOLOGICAL AND/OR PHYSICAL DEPENDENCE. KEEP OUT OF REACH OF CHILDREN

AND ANIMALS. CANNABIS PRODUCTS MAY ONLY BE POSSESSED OR CONSUMED BY PERSONS 21 YEARS OF AGE OR OLDER UNLESS THE PERSON IS A QUALIFIED PATIENT. THE INTOXICATING EFFECTS OF CANNABIS PRODUCTS MAY BE DELAYED UP TO TWO HOURS. CANNABIS USE BEFORE AGE 25 MAY AFFECT BRAIN DEVELOPMENT. CANNABIS USE WHILE PREGNANT OR BREASTFEEDING MAY BE HARMFUL. CONSUMPTION OF CANNABIS PRODUCTS IMPAIRS YOUR ABILITY TO DRIVE AND OPERATE MACHINERY. PLEASE USE EXTREME CAUTION.” 6. THC concentration should be limited to 15% in all products, and individual serving size should be regulated and limited to 10 mg, with individual packaging required for each serving. 7. Public use of marijuana should be prohibited, as well as its use in any setting where tobacco/nicotine smoking or vaping are prohibited. 8. State regulatory review of all new products should occur before the new products come to the market. 9. Laboratory confirmation of quantities of THC and CBD in products should be required and documented on package labeling. 10. The State should set up a process to determine that all products sold on the market are free of pesticides and contaminants (e.g., mold). 11. At least 10% of the State’s revenue from the sale of marijuana products should be dedicated to public education regarding risks of recreational marijuana use, particularly risks to children, and an additional 10% to medical and public health research on the harms and benefits of marijuana to individual and public health. 12. Marijuana blood levels should always be measured in any case where alcohol blood levels are measured, and State funds should be allocated to measure these levels. Funds should also be allocated to educate and train law enforcement on drug recognition expert (DRE) training and the Illinois Department of Transportation to implement a statewide impaired driving education campaign. 13. Marijuana should be regulated primarily by the Illinois Department of Public Health, and the Department’s highest priority should be the preservation of the public’s health. The controlling board for such regulation should have representation and input from all interested stakeholders with no financial connections to the marijuana industry, including the Illinois State Medical Society, organizations representing interested medical specialties as well as other professional healthcare organizations (nurses, dentists, hospitals, substance use disorder treatment centers, etc.). Representatives of the marijuana industry, including cultivators and dispensaries, should not sit on the board of any entity overseeing or controlling the marijuana industry. 14. No additives to marijuana products should be allowed, especially any substances that may increase the addictive potential of the products. 15. Local governmental authorities should be allowed to opt out of marijuana sales in their areas of jurisdiction without the need to have a public referendum. (HOD 2018; BOT 2019-JAN; Last BOT Review 2019)

It is the policy of ISMS to support legislation that provides for a defined and dedicated portion of tax revenues derived from the marijuana industry to be directed to a standing State Board established for and charged to monitor, study, and report to the legislature regarding the public health impact of marijuana use. (2019 Annual Meeting)