



## **Module 6: Substance Use**

### **Part 4: Regulation of Marijuana**

This module will focus on regulation of marijuana. The Healthy People Objective is Essay 13: Reduce the Proportion of Unauthorized Marijuana Use During the Past 30 Days.

The focus on reducing unauthorized use of marijuana will be considered from several perspectives. The recent prevalence and trend data on unauthorized marijuana compiled by the substance abuse and mental health administrations and a national survey with a particular focus on teens. The current federal regulation on marijuana in policies, an example of a national evidence based prevention program for teens and the status of legalization of marijuana for medical and regulation use by states and the District of Columbia.

Of note, marijuana is the most commonly used illicit drug in the United States, with over 18 million individuals reporting use. There is an associated rate of emergency room utilization reflecting 374,000 visits annually. Under federal law marijuana is classified as a Schedule I drug under the controlled substances act meaning it is illegal to use.

However, even though there is a legal principle called preemption which prohibits state governments from passing laws contrary to federal law, 20 states and the District of Columbia have approved state laws for medical use of marijuana within their borders.

Use of marijuana poses healthcare, criminal justice, political, social and economic challenges. Data from the 2011 national survey of drug use and health indicates that marijuana was the most commonly used illicit drug. 18.1 million users age 12 and older reported use of marijuana, which is similar to the rate in 2010.

Four point two million Americans met the clinical criteria for dependence or abuse of marijuana in the past years. Use of marijuana in teens in 2011 was similar to the rate in 2010. Of concern is this statistic that 44.7 teens aged 12 to 15 years reported easy access to obtaining marijuana.

There also was a decrease in percentage of teens who perceive the great risk in smoking marijuana one to two times a week. This is a significant increase in the percentage of teens who felt the risk was lower in 2011 compared to 2007.

The data on initiation of marijuana shows 2.6 million individuals 12 years and older reported marijuana as initial use in the past six months; 57.7% of the 2.6 million users were less than 18 years of age. There was increase in initial use from 2010. Marijuana use in teens continues to be widespread. This bar graph confirms other research that a higher percentage of high school seniors use marijuana over other illicit drugs.

The federal government has initiated regulation of marijuana since 1926. Over the past seven decades, the federal policies concerning control and use of marijuana for medicinal purposes have been considered and addressed by congress and the courts. The next two slides will highlight positions of the Office of National Drug Control policy on marijuana, the Drug Enforcement Administration, the Food and Drug administration, professional healthcare and non-



governmental organizations' policies on marijuana and guidelines issued by the Department of Justice including two recent policy changes.

The policy of the Office of National Drug Control on marijuana is that its' use is harmful and should be discouraged. Research has shown that marijuana smoke contains 50 to 70% more carcinogenic hydrocarbons than tobacco smoke and is an irritant to the lungs. Studies have also shown an association of chronic marijuana use with dependency, respiratory and mental illness, poor motor performance, impaired cognitive and immune system functioning and other negative effects. Other studies have shown destroyed perceptions, difficulty in thinking and problem solving and problems with memory and learning that have been attributed to chronic marijuana use. As well as increased rates of anxiety, depression, suicidal thoughts and schizophrenia.

The Drug Enforcement Agency is part of the U.S. Department of Justice. It is responsible for enforcing the controlled substance laws and regulations of the United States and as part of its responsibilities it recommends and supports non-enforcement programs aimed at reducing the availability of illicit controlled substantives. The policy of the DEA on marijuana is that it is properly categorized under Schedule I of the controlled substance act. Therefore it is illegal for marijuana to be dispensed, prescribed, or used. The DEA however does support ongoing research into potential medicinal uses of marijuana's active ingredients.

Today, the FDA has not approved any form of marijuana for medicinal use. The FDA has approved one drug Marinol which is a Schedule III drug that contains a synthetic form of TCH. Marinol is approved for two indications: relief of nausea and vomiting associated with chemotherapy for cancer patients and appetite improvement for patients with AIDS who have anorexia associated with weight loss.

Professional health care and non-governmental organizations also have issued policies on marijuana. These organizations endorse scientific, well-controlled studies on marijuana related to cannabinoids in patients with serious conditions for which there is some evidence suggesting possible efficacy. They endorse the rigor of the federal drug approval process. They do not endorse smoking of marijuana though as a means for drug delivery and they do not endorse legalizing marijuana. Despite the firm position of the federal administration and the Department of Justice's commitment to enforce the Controlled Substantive Act, in 2009 the Department of Justice issued formal guidelines for federal prosecutors in the states that have legalized medical marijuana.

The Department of Justice guidelines affirm the enforcement of the Controlled Substances Act in all states and D.C.

The focus of federal resources is not on individuals whose actions are in compliance with existing state laws. State laws that legalize marijuana for medical use, do not legalize marijuana or provide a legal defense to the violation to the federal law. The Department of Justice intends to continue investigation and prosecutions of violations of state and federal law by individuals claiming compliance with these state and local laws. And concealment of operations inconsistent with the purposes and conditions and terms of state and local laws will be investigated and prosecuted by the Department of Justice.



In August 2013, the Department of Justice announced changes in prosecution practices, sentencing and incarceration policies to reduce the incarceration and address inequities in the Justice system. The new policies recognize the increased use of drug treatment programs as alternatives to incarceration, expand programs of compassionate release for elderly inmates who have several significant sentencing time for non-violent crimes and increase the number of crime cases moved to state courts.

Also in August, 2013, the Department of Justice updated its Federal Marijuana Enforcement Policy. This is in recognition of the additional state initiatives legalizing and regulating possession, production, sale and use of marijuana. The Department of Justice has decided to focus its federal enforcement priorities on particular areas including: possession, growing or use of marijuana on federal property, distribution to minors, diversion of sales revenues from the sale of marijuana for medicinal purposes to criminal organizations and activities, diversion of marijuana from states that legalize its use for medical purposes to other states, and drug driving and consequences of other adverse effects associated with marijuana use and using state authorized activities as pretexts or cover for illegal activities.

I want to bring your attention to a national youth anti-drug media prevention campaign initiated by the Office of National Drug Control Policy targeted to teens. This program had two components: "Be under your own influence" and "Above the influence" which ran from the period of 2005 to 2009.

The goal was to reduce marijuana by teens. The strategy was to disseminate tailored messages across various media and venues, through national campaigns, in school and community campaigns. This was aligned with adolescent development needs for autonomy and confidence. They positioned marijuana use as inconsistent with autonomy and confidence. Extensive evaluations were done and the outcomes reflected a trending towards positive impacts on attitudes and behaviors which were also associated with self-reported reduced marijuana use. This is just one example of innovative prevention programs that have been developed and implemented to address use of illicit marijuana by teens.

I now turn our attention to state medical marijuana laws. As of September, 2013, 20 states and the District of Columbia have enacted laws permitting use of medical marijuana. California was the first state to permit medical use in 1996. States have laws supporting medical marijuana, but these laws do not necessarily guarantee legal protection if the person happens to be prosecuted by the federal government.

An overview of some of the key provisions of the state medical marijuana laws include: State patients registries or identification cards, regulation of access to marijuana, regulation of the medical practice prescribing the marijuana, specified health conditions for which the medical marijuana can be prescribed, recognition of patients from other states, and legal defenses and protections for patients. These are some of the general provisions seen across the state laws across the country.

This is a list of the state-approved indications and conditions for which medical marijuana is used.



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Some of the policy issues that will need to be considered going forward are differentiating between marijuana as substance abuse versus recreational use, substance abuse versus medical treatment, and the inconsistencies in federal and state policy with federal policy classifying marijuana as a Schedule I illegal product and state policies where the use of marijuana for medicinal purposes has been authorized in 20 states and more recently authorized for recreational use in two states.

The conflicting U.S. Department of Justice guidelines which recognizes and enforces their policies concerning Schedule I drugs while acknowledging the authorization of legal and some recreational use across the states. There also will need to be reconciliation of the criminal enforcement policies which take on a public safety perspective versus health care policies which focus on the public health. Some of these issues to be addressed are incarceration, drug courts with and without treatment, use of harm reduction approaches and substance abuse and mental health treatment