21 March 2018

DPA are speaking to our submission on the Misuse of Drugs (Medicinal Cannabis) Amendment Bill tomorrow morning.

To the Health Select Committee

Please find attached DPA’s submission on the Misuse of Drugs (Medicinal Cannabis) Amendment Bill 2018.

DPA wish to appear before the Health Select Committee to speak to our submission.

Disabled Persons Assembly NZ

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**Introducing Disabled Persons Assembly NZ**

The Disabled Persons Assembly NZ (DPA) is a pan-disability disabled person’s organisation that works to realise an equitable society, where all disabled people (of all impairment types and including women, Māori, Pasifika, young people) are able to direct their own lives. DPA works to improve social indicators for disabled people and for disabled people be recognised as valued members of society. DPA and its members work with the wider disability community, other DPOs, government agencies, service providers, international disability organisations, and the public by:

* telling our stories and identifying systemic barriers
* developing and advocating for solutions
* celebrating innovation and good practice

**Misuse of Drugs (Medicinal Cannabis) Amendment Bill 2018**

DPA welcome the proposed amendment to the legislation governing the use of, and access to, medicinal cannabis. We believe work in this area is overdue and applaud the intention of the Government to move forward ‘guided the by principles of fairness, quality, safety and compassion.’ We are particularly heartened that this issue is being approached as a health issue. To us, this reflects significant shifts in thinking at the level of popular opinion and political will. DPA believes current approaches to medicinal cannabis are punitive, discriminatory and have led to the unnecessary criminalisation of people trying to ensure quality of life for themselves or others.

In hearing from our members, the wider disability community, and through our own research, we too believe the use of medicinal cannabis is, and should be, a ‘quality of life’ issue – and any proposed law change must be considered from this perspective.

However, DPA is disappointed that the proposed amendment does not apply to disabled people who experience chronic pain, muscle spasms, medication-induced nausea, epilepsy or other conditions where medicinal cannabis is indicated as a treatment.

Our submission is in agreeance with the 81% of New Zealanders who in 2017 supported access to medicinal cannabis for terminally ill people and the 78% who support it in cases including, but not limited to, terminal illness.[[1]](#footnote-1)

**The economic social situation of disabled people**

Disabled people are overrepresented in unemployment and low income statistics. They are twice as likely as their non-disabled peers to be unemployed and earn on average just over half of the average weekly income (Statistics New Zealand, June 2017). In addition, some disabled people’s experience of chronic pain and other chronic conditions make regular work an impossibility. The consequences of disabled people’s economic situations means that, while technically disabled people may be eligible for legally prescribed cannabinoids, in reality the cost of this medication is not funded by PHARMAC and is therefore prohibitive for all but an elite few. The consequences of this situation is that most disabled people have a lack of real options around treatment and a lower quality of life when other (highly addictive, but socially acceptable) drugs are not effective for them.

**Access to medicinal cannabis under current New Zealand law**

Disabled people and those with chronic conditions who use cannabis for medicinal reasons do so because ‘it is the only thing that works.’ For the people we spoke to in particular, chronic pain had been a condition that they had lived with for up to several decades. During this time they had tried an extensive range of other ways to control pain and other symptoms related to their condition. People found that using plants provided the most effective relief of any form of pain relief. Our members were quick to emphasise that their choice to use medicinal cannabis had nothing to do with recreational use. Rather, they were concerned about the safety and quality of the cannabis they had access to, but judged that the benefits to their quality of life far outweighed the risks.

The people we spoke did not want to be pursuing pain or symptom relief in direct opposition to the law. However, it was viewed as the only option, even in light of current avenues for prescribing medicinal cannabis products. One woman with chronic pain said she had been described by her doctor as ‘prime candidate’ for cannabinoid products. However, she could not afford the thousands of dollars a year that it would personally cost her, so had to decline the treatment. Similar stories appeared to be common across a spectrum of impairments and terminal illnesses.

Dylan Kelly, son of the late Helen Kelly, recently told Radio New Zealand that his mother had rescinded her application to the Ministry of Health, because the process was drawn out and likely to be rejected. Dylan said that the experience for a lot of people involved giving up on the legal pathways to accessing medicinal cannabis, because they were distressing, time consuming and resulted in little success for people who were already in desperate situations.

**Access under the proposed amendment**

While we welcome the change, the Bill as it is currently formulated fails to provide for all people who could benefit from it. The amendment proposes to exempt a very small number of people from criminalisation, without addressing the fact that many more people currently use medicinal cannabis who are not facing imminent death. This group of disabled people rather live with the fear of prosecution and/or losing access to a key source.

Disabled people similarly living with long-term pain and other symptoms, in a similar way as their terminally ill peers, want the dignity and ease of access to medicinal cannabis for responsible pain and symptom management.

They have identified medicinal cannabis as an indispensable element of maintaining their quality of life. The proposed law only makes provision - through a statutory ‘Helen Kelly’ defence. For people with terminal illness who are ‘reasonably expected to die within 12 months. This means that many people will continue to be in breach of the law.

Rather than providing for ‘quality of life’ the current Bill instead effectively only focuses on ‘quality of death.’ In providing only for those people who are terminal, the law maintains the current status of those people with chronic conditions as criminal.

In addition, only legalising medicinal cannabis for those at the end of their lives maintains the stigma around present usage for those with chronic conditions. This has the potential to create problems for people because of their reluctant to disclose about their usage to medical professionals, family members, employers or their wider community. One of our members told us:

“My dad had his leg amputated 3 or so years ago due to blood clots , he didnt tell any of the drs or surgeons that he smoked cannibis, this worried me to no end that this info wasnt given to these professionals due to fear of being prosecuted. My thought is if they need to know you smoke ciggerttes.. they need to know if you smoke cannibis.” [sic]

One member of DPA told staff that her personal cannabis plants had been used sparingly, ‘only when I’m in so much pain I can’t see straight.’ However, her plants had been discovered by family and they had removed them.

Another person told us that, while her family and friends know about both her and her father’s usage, the risk of possession is ‘always on my mind.’ She told us that her only avenue for obtaining cannabis is currently through gangs and this had led to her elderly father being attacked at one stage. As well as illegality, physical safety is a major concern for her.

The DPA recommends that clause 4 of the Bill pertaining to eligibility is amended to include those people with chronic conditions and disability and that the timeframe around prognosis and terminal illness also be extended. The Government needs to legislate around medical cannabis with a full view to who is using cannabis for medicinal purposes. Any legislation needs to ensure the safety of the full spectrum of users.

In addition the legislation makes no substantive provision to ensure equitable access to cannabis. The proposed law fails to make provision for growing a personal supply of cannabis for medical use. Even with a statutory defence in place, it only covers possession by a terminally ill person, with no protections extended to either those who supply or administer it. For some people a there is a fear of hiring new staff for disability related support because staff could be implicated in their use of cannabis. Disabled people with chronic pain and other, need legal pathways for access which also acknowledge that there may be other people involved in their care and support who also need protection under the law.

**DPA’s recommendations**

The Disabled Person’s Assembly strongly recommends that PHARMAC fund cannabinoid drugs at a level which makes them accessible to those who would benefit from them.

The Disabled Person’s Assembly strongly recommends that the proposed Bill be extended to include disabled people who are approved for medicinal cannabis use.

The Disabled Person’s Assembly also recommends that the proposed Bill be amended to address the issue of possession and supply of medicinal cannabis by support people, with the understanding that it could take several years to propagate a sustainable, local stock of regulated medicinal cannabis.

The Disabled Persons’ Assembly recognises the expertise of the New Zealand Drug Foundation and endorses their submission on this work.

1. Support for Cannabis Law Reform Remains High, New Zealand Drug Foundation, 2017 - https://www.drugfoundation.org.nz/news-media-and-events/support-for-cannabis-law-reform-remains-high/ [↑](#footnote-ref-1)