

Ask Dr. Leigh: What is the difference between cannabis legalization and decriminalization, and how does it impact medical marijuana users?

Leigh Vinocur, MD

July 13, 2022

Using cannabis can have a big impact on your physical and mental health—for better, and sometimes for worse. That's why it's important to consult a healthcare provider before experimenting.

Here at GreenState, cannabis clinician Dr. Leigh Vinocur is here to answer your questions on healthy living with cannabis.

Editor's Note: The answer to this question is meant to supplement, not replace, advice, diagnoses, and treatment from a healthcare provider. Always consult a medical professional when using cannabis for medicinal purposes, and do not disregard the advice of your healthcare provider because of anything you may read in this article.

Q: What is the difference between cannabis legalization and decriminalization, and how does it impact medical marijuana users?

A: Many people mistakenly think that decriminalization and legalization are interchangeable terms when it comes to cannabis law, and they are not.

Decriminalization removes criminal penalties for personal use of small amounts of cannabis, which still remains an illegal substance to manufacture or sell. Under decriminalization alone, the state does not regulate cannabis. States that have passed medical cannabis laws often also decriminalize recreational cannabis. If caught with cannabis in a state where cannabis is decriminalized, you'll usually receive a civil penalty or a fine under the jurisdiction of the police, not criminal charges under the jurisdiction of the courts. But of course, in the US, each state may have slightly different statutes.

The legalization of cannabis is aimed at managing the supply. Legalization lifts prohibitory laws on the possession and use of cannabis that is not medical. More importantly, it allows the government to regulate and tax the sale and manufacturing/processing of cannabis.

Both decriminalization and legalization can save taxpayers millions of dollars by not using courts and prisons to prosecute and imprison the many cannabis users put there for possessing small amounts. Proponents of legalization go further and argue that governments stand to make more revenue in the form of taxes by legalizing and regulating the large growing businesses related to the manufacturing, processing, and sale of cannabis.

One of the great medical benefits seen with decriminalization is expressed in a white paper published in 2001 by the Cato Institute. Portugal's decriminalization program was reviewed, and it was found that those patients with substance use disorder were more likely to pursue treatment when cannabis is decriminalized. This is an important benefit because we in the medical community have always argued that substance use disorder is a medical disease with public health implications and not a crime. And again, many states in the US that have approved medical cannabis programs have decriminalized it without going so far as to legalize adult recreational use.

But proponents of legalization point to the inequity of our criminal justice system with respect to cannabis arrests in minority populations. Since minorities bear the brunt of arrests and imprisonment for cannabis charges, any legislation should also include restorative social justice, with automatic criminal record expungement of marijuana related charges and convictions, as I wrote in an opinion piece on legalization. In the US, as of this year, 40 states and the District of Columbia (DC) have decriminalized cannabis and allowed medical use, while 20 states including DC have legalized cannabis for adult recreational use.

States and their constituents might feel that opting for decriminalization would unburden their legal justice system while not promoting or condoning the use of cannabis. They often worry that legalization will somehow increase cannabis use and addiction in our youth. However, this has not been the case in states like Colorado, which started with a medical program and then legalized adult use in 2012. A 2018 report from the Colorado Division of Criminal Justice found no increase in marijuana use in teens at that time. In fact, they saw an 11% drop after legalization, with high school graduation rates increasing.

Additionally, I would argue that studies have shown cannabis to be less addictive than tobacco, alcohol, and opioids. According to the CDC, tobacco and alcohol, both legal substances sold in the US, cause about 480K and 140K deaths a year, respectively. And cannabis is certainly less dangerous than opioids, which now account for over 100K deaths per year and a total of 932K since 1999.

While cannabis has no appreciable number of deaths from overdose, we still have to be cognizant of potential occupational and motor vehicle injuries and death from being under the influence in adult-use markets. People need to consume responsibly, the way they should with alcohol.

Another potential harm resulting from more cannabis in households in adult-use markets is the possibility of pediatric exposure and overdose. While generally not fatal for children, they are the

most at risk when cannabis becomes legal in a state, especially when some retailers create tempting-looking cannabis products such as cookies, brownies, and gummy candies.

A colleague of mine published a study in JAMA Pediatrics that found the average rate of cannabis-related visits to the children's hospital almost doubled two years after legalization and there was a 34% increase in calls to regional poison control centers. It is imperative to keep cannabis out of the hands of small children, just like we would with alcohol and other medications and drugs.

Additionally, as a physician, I worry about people self-medicating in adult-use markets. In Colorado, after legalization, there was a slight drop in the registration of medical cannabis patients. Additionally, a study surveying adults who use cannabis every day found that almost 55% of patients relied on advice from dispensary employees while less than 3% of participants selected cannabis products with input from a medical professional. I find this worrisome because medical guidance is so important when using cannabis therapeutically.

Like any other medication, patients need to be aware of potential drug interactions and other safety information related to its therapeutic use. That is why education on medical cannabis science and therapeutics for patients, physicians, and cannabis industry personnel is so critical. In fact, a big part of my practice is creating these basic training programs for the cannabis industry and the healthcare sector.

Lastly, one clear benefit of legalization, especially at the federal level, can be seen in countries such as Canada. By responsibly legalizing cannabis there, it has opened the doors for meaningful human clinical trials, which we need to truly prove its real efficacy and safety as a therapeutic agent.