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Why Are Cops In Charge Of Medical Research And The Practice Of Medicine?

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Earlier this week, the Food and Drug Administration issued a draft of proposed guidelines for clinical researchers conducting trials on psychedelic drugs. Even though the Drug Enforcement Administration categorizes psychedelic drugs as Schedule I (meaning that the law enforcement agency has determined they have "no currently accepted medical use and a high potential for abuse"), clinical researchers have known for decades that psychedelic drugs can help treat a variety of mental health disorders.

Government-approved Phase 3 clinical trials of the psychedelic MDMA* (colloquially called "molly" or "ecstasy") show the drug can be effective in treating post-traumatic stress disorder (PTSD). News reports claim the FDA is expected to approve the drug for PTSD treatment later this year. Regulators in Australia approved it last February. The FDA recently approved a clinical trial using MDMA to treat schizophrenia. Psilocybin, the psychedelic found in "magic mushrooms," has been shown helpful in treating tobacco addiction, depression, and suicidal ideation, particularly in patients receiving palliative end-of-life care. Research dating back to the 1950s finds that LSD (lysergic acid diethylamide) shows promise in treating anxiety, depression, addiction, and psychosomatic diseases. Of course, none of this matters if the DEA doesn't agree to reschedule these drugs and continues asserting they have "no currently accepted medical use." Accepted by whom?

Generally, when the FDA approves a controlled substance for medical use the Secretary of Health and Human Services must next formally request the DEA reschedule the drug. The DEA then has 90 days to issue an interim final rule. But the DEA doesn't have to follow the health care agencies' recommendations.

In 1985 the DEA placed MDMA on Schedule I as an emergency action. Clinicians and clinical researchers challenged the decision and, in a 1986 hearing, provided mountains of scientific evidence that convinced administrative law judge Francis L. Young to conclude:

If the Administrator of DEA carefully considers the entire record now provided in this proceeding, there is no reason why he cannot come to the informed decision the law requires of him as the Agency head.

Needless to say, nothing in this opinion is to be taken as being in any way critical of the Agency's emergency scheduling of MDMA which became effective on July 1, 1985. That action was taken pursuant to certain statutory authority with which this proceeding is not concerned. That action was wholly unilateral, reflecting a view based on evidence then available to the

Agency but without opportunity for the presentation of countervailing evidence or argument. This proceeding, a wholly separate process, has provided that opportunity. A complete record, with input from different perspectives, has now been assembled for the benefit of the Administrator, the head of the Agency.

The record now assembled contains much more material about MDMA than the Agency was aware of when it initiated this proceeding by publishing a notice almost two years ago. Based upon this record it is the recommended decision of the administrative law judge that the substance 3, 4-methylenedioxymethamphetamine, also known as MDMA, should be placed in Schedule III.

Dated: May 22, 1986

Francis L. Young, Administrative Law Judge

Judge Young vacated the DEA's decision to place MDMA on Schedule I, placing it on Schedule III ("moderate to low potential for physical and psychological dependence"). One month later, Acting DEA Administrator John Lawn overruled the administrative law judge and moved MDMA back to Schedule I, stating that, though expert clinical researchers presented over 200 cases of MDMA-assisted psychotherapy at the hearing, none of them had been published in medical journals.

Think of all the research that has been stifled, and all the lives that could have been saved or improved, if Administrator Lawn had not made that fateful decision.

And it's not just psychedelics. Who can state with a straight face that cannabis has "no accepted medical use?"

Thus, even if the FDA approves MDMA to treat PTSD and other mental health disorders, clinicians and patients will still have to wait for a law enforcement agency to sign off on the decision. And this is not just a federal law enforcement decision. Each state has its own controlled substance system patterned after the federal system. According to the Multidisciplinary Association for Psychedelic Studies (MAPS), 27 states have laws that require parity with the federal controlled substances schedule. In those cases, the states automatically reschedule controlled substances to conform with a DEA rescheduling. But the remaining 23 states require lawmakers or regulators to make their controlled substance schedules conform.

Recently Representatives Dan Crenshaw, Morgan Luttrell, and Jack Bergman–all military veterans– introduced the "Mike Day Psychedelic Therapy to Save Lives Act," which would provide federal grants for research into using MDMA to treat PTSD and traumatic brain injury patients. It is gratifying to see lawmakers begin to appreciate the potential benefits of psychedelics.

But law enforcement is in command of the war on drugs. Unless Congress acts, we will continue to see cops practicing medicine. And the people—veterans and non-veterans— will continue to suffer.

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