

# RESOLUTION

## State Regulation and Control of Psychoactive Substances

The King County Bar Association, together with a coalition of professional and civic organizations, has been examining a public health approach to the chronic societal problem of substance abuse and encouraging public investment in research, education, prevention and treatment as a more effective alternative to the use of criminal sanctions.

The King County Bar Association has concluded, in consideration of the findings enumerated below, that the establishment of a new legal framework of state-level regulatory control over psychoactive substances, intended to render the illegal markets for such substances unprofitable, to restrict access to psychoactive substances by young persons and to provide prompt health care and essential services to persons suffering from chemical dependency and addiction, will better serve the objectives of reducing crime, improving public order, enhancing public health, protecting children and wisely using scarce public resources, than current drug policies.

Therefore, the King County Bar Association resolves that:

The Washington State Legislature should establish a special consultative body, composed of experts in pharmacology, education, medicine, public health, law and law enforcement, as well as public officials and civic leaders, including delegates from the leadership of each caucus in the House and Senate, to provide specific recommendations for legislation to establish regulatory systems and structures for the State of Washington to control psychoactive substances that are currently produced and distributed exclusively through illegal markets, including the regulation of manufacturing, transportation, storage, purity and product safety, limitations on sale and other transfer, labeling, pricing and taxation, requirements of medical supervision, limits on advertising, and the civil and criminal enforcement of such regulations, as set forth more fully below.

The King County Bar Association transmits this resolution to the Washington State Legislature, urging the establishment of a special consultative body as provided and for the purposes stated in this resolution.

**ADOPTED** this 19<sup>th</sup> day of January, 2005.

## **The Coalition and Its Task Forces and Committees**

The coalition includes the King County Medical Society, the Church Council of Greater Seattle, the Loren Miller Bar Association, the Municipal League of King County, the Seattle League of Women Voters, the Washington Academy of Family Physicians, the Washington Association of Addiction Programs, the Washington Osteopathic Medical Association, Washington Physicians for Social Responsibility, the Washington Society of Addiction Medicine, the Washington State Bar Association, the Washington State Medical Association, the Washington State Pharmacy Association, the Washington State Psychiatric Association, the Washington State Psychological Association and the Washington State Public Health Association.

The coalition has established over a dozen task forces and committees comprising hundreds of participants, including lawyers, judges, doctors, pharmacists, law enforcement officers, elected and appointed public officials, health care professionals, drug treatment specialists, scholars, educators, leaders of civic organizations and others who, together with full-time professional staff, have spent thousands of hours over three years investigating and analyzing the problems arising from the prohibited use and sale of certain psychoactive substances, especially the problems arising from the operation of the illegal markets in which such substances are exclusively produced and distributed.

## **Findings and Conclusions**

The task forces and committees have concluded that current drug control policies are fundamentally flawed and that the unrelenting demand for prohibited psychoactive substances has fostered and strengthened highly profitable illegal markets for the production and distribution of such substances; and that the operation of such illegal markets is a proximate cause of devastating societal impacts, including:

1. Rates of prohibited substance use and of crime related to prohibited substances that have failed to decline or have actually increased during the current period of intensified law enforcement and incarceration, including children experimenting with more dangerous substances at younger ages;
2. Soaring public costs on the federal, state and local levels arising from the continued use of harsh criminal sanctions related to prohibited psychoactive substances, contributing to the overcrowding of jails and prisons and draining public coffers of the resources needed for investment in local communities and for the provision of essential services;

3. Impaired administration of justice from the continuous flow of drug cases clogging the courts and causing undue and sometimes prejudicial delays in the investigation and prosecution of non-drug-related criminal matters and in the processing of civil matters;
4. Undermining of public health, including the transmission of blood-borne diseases, the uncontrolled distribution of impure and hazardous substances, and the development of high-potency, synthetic substances that are more easily concealed but are more harmful to health, as well as the inhibition of users of prohibited substances from seeking medical attention for chemical dependency and addiction;
5. Disproportionate arrest and incarceration of ethnic minorities and the poor, causing the disruption of families and the interference with or denial of educational, employment and housing opportunities, and exacerbating the social conditions that are associated with chemical dependency and addiction;
6. Compromises in the protection of citizens' constitutional rights as a result of stepped-up law enforcement and penalties related to prohibited substances, impinging upon individual privacy rights and depriving persons convicted of drug offenses of the right to vote and other civil rights; and
7. Loss of respect for the law arising from public sentiments that the dangers of certain prohibited substances are overstated, that drug-related penalties are unjust and that coercing abstinence through the use of criminal sanctions is a futile public objective.

### **Subjects to Be Considered by Consultative Body**

1. The prohibition of and sanctions for the unlicensed manufacture of state-controlled psychoactive substances;
2. The prohibition of and sanctions for the distribution or delivery of state-controlled psychoactive substances by or to unauthorized persons;
3. The establishment of age-related restrictions on availability;
4. The determination of the degree to which state-controlled substances may be made available to authorized recipients and in what forms, concentrations and quantities;
5. The determination of the degree to which medical supervision or other restrictions may be necessary to minimize the harm associated with the misuse of such substances;

6. The regulation of state-licensed facilities for state-controlled substances to eliminate incentives to promote the use of such substances or to divert them into an illegal market;
7. The prohibition or limitation of the display and use of state-controlled substances in some or all public places;
8. The prohibition or strict limitation of any commercial advertising or promotion of state-controlled substances, to the extent permitted by the First Amendment, and the promotion of publicly sponsored counter-advertisement to educate the public about the risks and potential harms from the use of such substances;
9. The provision of current, scientifically-based information to recipients of state-controlled substances, including counseling about the particular risks and adverse effects of the use of any such substance and about the availability of treatment for chemical dependency or addiction;
10. The dedication of net proceeds from the sale of state-controlled substances, and of net proceeds from the collection of civil and criminal penalties, for use by the State of Washington to invest in substance abuse prevention, treatment, research and education programs;
11. Pricing structures for state-controlled substances that compensate the state for the administration of the regulatory framework and that maximize funding for prevention, treatment, research and education, while maintaining price levels low enough to render any illegal markets for such substances unprofitable but high enough to deter consumption, especially by young persons; and
12. Provisions for ongoing regulatory oversight, civil and criminal enforcement, and legislative advice by the state agency or agencies charged with regulating state-controlled substances.

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