

What About Cannabis:

Substance Abuse, the Professional, and Cases in the Field

ADR Services, Inc.
Webinar
October 6, 2021

Meet Our Panelists



Hon. Jacqueline A.
Connor (Ret.)



Hon. James
Lambden (Ret.)



Mitchell
Tarighati, Esq.



SUBSTANCE ABUSE AND THE PROFESSIONAL

Substance Abuse and the Professional

- Why do we need to discuss substance abuse as a special part of our Continuing Legal Education requirement?

Substance Abuse and the Professional

- There is a serious reason behind that requirement: lawyers are *professionals* and therefore owe a higher level of responsibility to our clients and to society.
- 20 Million Americans are estimated to be addicted to alcohol or drugs.
- 10% of our population will have a problem dealing with drug use during their lifetimes. We practice in a highly stressful profession and between 18% and 20% of lawyers have a drug problem at some point.

Substance Abuse and the Professional

- 14% of the general population will suffer mental health problems such as depression during their lives. The analogous figure for lawyers is 1/3.
- Drug use and mental health problems are interrelated.
- Practicing law is stressful

Substance Abuse and the Professional

- 42% of State Bar imposed discipline involves substance abuse;
- 80% of complaints (not ending in discipline) involve substance abuse.
- Usually alcohol, often in combination with other drugs.

Substance Abuse and the Professional

- The odds are good that everyone hearing this presentation will encounter substance abuse or mental health problems within the profession.
- Have you seen already problems with other lawyers or with clients?

CASE STUDY: Cannabis Disputes In The Real World

- Suit to collect settlement proceeds from counsel in 7 figure sale of cannabis dispensary owed to partner after counsel distributed entire amount to absconding partner
- Dispute between ongoing cannabis enterprise with company hired to expand; dispute over invoices, claims of fraud and deceit; false promises of payments
- Partnership dissolution in cannabis operations and issues of mismanagement, use of dehumidifiers, and illegal distribution
- Dissolution of partnership in cannabis farm with claims of fraud, mismanagement, denials of cash payments.
- Conflicting claims of monies invested by partners in cannabis industry

CASE STUDY: Cannabis Disputes In The Real World

- Wrongful termination and breach of contract by young black executive hired in cannabis industry and false promises of compensation.
- Vendor hired to expand cannabis business sued for millions in unpaid invoices countered by claims of fraud and bloated billing
- Dispute over termination of long term lease due to DCR uncertainties in issuance of temporary approval for license
- Claims of legal malpractice in alleged misrepresentation on being given inaccurate information from attorney claiming expertise about cannabis operation eligibility; client committed to purchase of land based on claims of approval-availability



WHAT ABOUT CANNABIS?

What About Cannabis?

- More than half the states have now decriminalized, permitted medicinal use, or legalized the recreational use of cannabis.
- It has been legal to use cannabis recreationally in California since the general election in 2016. This follows 20 years of relatively easy access to medicinal cannabis after voter approval of the Compassionate Use Act in 1996
- After legalization attorneys rapidly geared up to represent new cannabis related businesses.
- Many of the policy questions surrounding regulation are still being sorted and the continuing federal ban adds complexity.

What About Cannabis?

- Use of cannabis is also complicated by questions left unanswered by barriers to research and decades of misinformation.
- Will the new acceptance of cannabis raise competence issues for lawyers?
- Yes, if its use impairs an attorney's ability to perform legal services competently.
- The issues surrounding impairment and addiction apply to all substances and habits that can be abused.

What About Cannabis?

- As we will discuss, addiction is a progressive disease. It doesn't not necessarily depend on the abuse of any particular intoxicant and can include obsessions such as gambling.
- And such abuse does not need to amount to addiction in order to produce impairment of competence.
- In this context we will identify the causes of substance abuse, its consequences, identify resources to address the problem and discuss strategies for addressing substance abuse.



CANNABIS HAS BEEN USED AND
CULTIVATED SINCE PREHISTORY

Like alcohol, Used and Cultivated Since Prehistory

- Cannabis is one of many names for hemp, a highly adaptive and successful annual plant found throughout the temperate and tropical zones of the world.



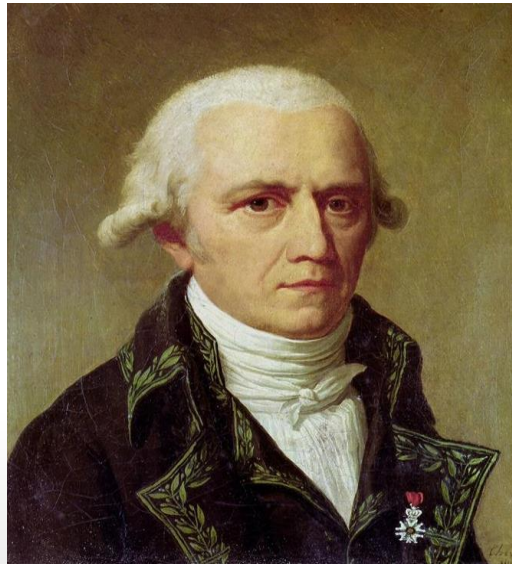
Like alcohol, Used and Cultivated Since Prehistory

- An herbaceous plant with its own specific botanical group, described by Linnaeus in 1753 as *Cannabis Sativa*, the later term deriving from the Latin meaning, “cultivated”.



Like alcohol, Used and Cultivated Since Prehistory

- In 1783 Jean-Baptiste Lamarck classified two species: *Cannabis sativa* for the European variety and *Cannabis indica* so named for its country of origin. In 1924 a third type *Cannabis ruderalis* was identified in Siberia.



Like alcohol, Used and Cultivated Since Prehistory

- Its vigorous growth and usefulness as a fiber and source of food led to its cultivation in prehistory and it may well have been one of the first plants to be farmed or at least utilized, since it grows “like a weed”.



CASE STUDY: Cannabis Disputes In The Real World

THE 'SALE TRANSACTION GONE WRONG' CASES

- **Fact Pattern:** Person A obtained the original license pre-MAUCRSA, and alleges that at some stage, the original license that he had obtained was transferred to an intermediary entity in which Person A (seller) and Person B (buyer) claimed an interest. Person A alleged that said interest also gave him an interest in the ultimate for-profit entity that currently holds all the operative licenses, and which has the business/profit activities. Claimant contends that the value of his percentage ownership interest should be based on the multi-million-dollar price tag that said licenses currently fetch and/or from the profits of such licenses vs. the original buyout amount.

CASE STUDY: Cannabis Disputes In The Real World

THE 'YOU *JUST* PROVIDE THE INVESTMENT, AND WE'LL DO THE *REST*' CASES

- **Fact Pattern:** Group A are seasoned and experienced people in the cannabis industry. Group B are an investment group. A and B enter into a venture wherein Group B provides capital *only*, and Group A provides expertise to procure licenses, obtain facilities, handle compliance, handle business operations/management, etc. Group B allegedly does not follow through with timely capital contributions. The venture incurs measurable liabilities, and considerable monies were spent. Group A begins to also invest in the venture given Group B's alleged funding shortage. Group B allegedly makes promises re delivery of money, and based thereon, Group A makes promises in kind as to completion dates, deliverables...neither side are able to keep their respective promises.

CASE STUDY: Cannabis Disputes In The Real World

THE 'WE WANT TO KEEP OUR BUSINESS AFFAIRS PRIVATE & OUT OF THE COURTROOM' CASES

- **Personal Injury Cases:** A security guard was injured while on duty, resulting in significant bodily injuries including but not limited to allegations of a traumatic brain injury.



THE PSYCHOACTIVE AND PHYSICAL EFFECTS OF CANNABIS

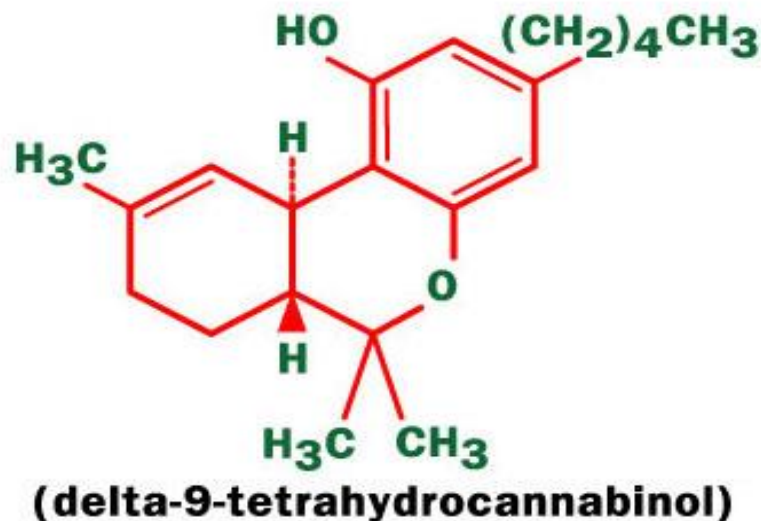
The Psychoactive and Physical Effects of Cannabis

- Plants that contain psychoactive compounds are divided into two groups: the *psychotropic*, which affect the nervous system and the *psychotomimetic*, which affect the mind by altering perception.



The Psychoactive and Physical Effects of Cannabis

- Of the more than 460 known chemical constituents of cannabis, more than sixty have the molecular structure of cannabinoids, but the most important of these, representing by up to 5% by weight is *tetrahydrocannabinol* aka THC.



The Psychoactive and Physical Effects of Cannabis

- As well as being a euphoric intoxicant,
- THC also works as an analgesic, muscle relaxant, anti-depressant and anti-emetic agent.
- It is proven to reduce epileptic fits, stimulate appetite and dilate bronchial tissue.
- The non-psychoactive component cannabidiol (CBD) has exploded in the OTC marketplace and approved by the FDA to treat seizures caused by tuberous sclerosis complex (TSC) in children

The Psychoactive and Physical Effects of Cannabis

- The two ways of imbibing THC are by inhalation or by ingestion.
- Inhalation by combustion or vaporization may be preferred because the effect is more immediate and thus easily controlled;
- And because the effect is relatively shorter in duration than with ingestion and has fewer physical side effects.
- Cannabinoid receptors are embedded in cell membranes throughout the human body as part of the end cannabinoid system.

The Psychoactive and Physical Effects of Cannabis

- When eaten, the THC can take over an hour to become absorbed into the bloodstream.
- And the psychoactive effect lasts longer and induces more intense reactions.





WHAT, ME WORRY?

THE ENDOCANNABINOID SYSTEM

HUMAN CANNABINOID RECEPTORS

CB1

Receptors are concentrated in the brain & the central nervous system but are also present in some nerves and organs.

CB2

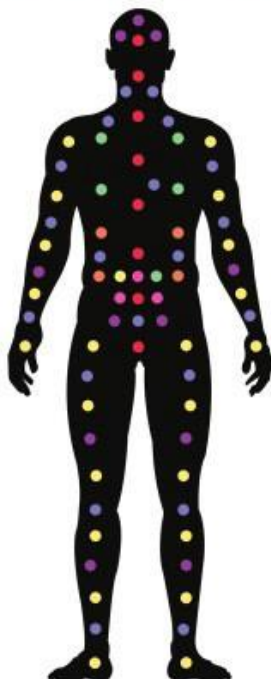
Receptors are mostly in peripheral organs, especially cells associated with the immune system.

TRPV1

Receptors are concentrated in the blood, bone, marrow, tongue, kidney, liver, stomach & ovaries.

TRPV2

Receptors are concentrated in the skin, muscle, kidney, stomach & lungs.



GPR 18

Receptors can be found primarily in bone marrow, the spleen and lymph nodes, and to a lesser extent the testes

GPR55

Receptors are found in the bones, the brain, particularly the cerebellum, and the Jejunum and Ileum.

GPR 119

Receptors are found predominantly in the Pancreas and the intestinal tract, in small amounts

What, Me Worry?

- Considered pharmacologically, cannabis is a mild hallucinogen. In low doses produces a sense of euphoria.
- But with high dosage it gives a more powerful reaction in which perception is reconfigured.
- Prolonged heavy use is implicated in disorders such as Cannabinoid Hyperemesis. A nasty piece of work that has led to the term “scromiting” (combining screaming and vomiting) and involving severe abdominal cramps accompanied by vomiting. Patients report symptoms may be relieved by hot showers. The cure appears to be abstinence.

What, Me Worry?

- The pleasant effects of the drug are well known but most have concomitant downsides:
- Imagination increases but concentration and motivation are reduced;
- Behavior is very rarely violent or aggressive but can become compulsive;
- Visual sensitivity is increased and taste, smell and hearing are augmented but heart rate, and blood pressure can rise, bringing risk to those with vascular problems.

What, Me Worry?

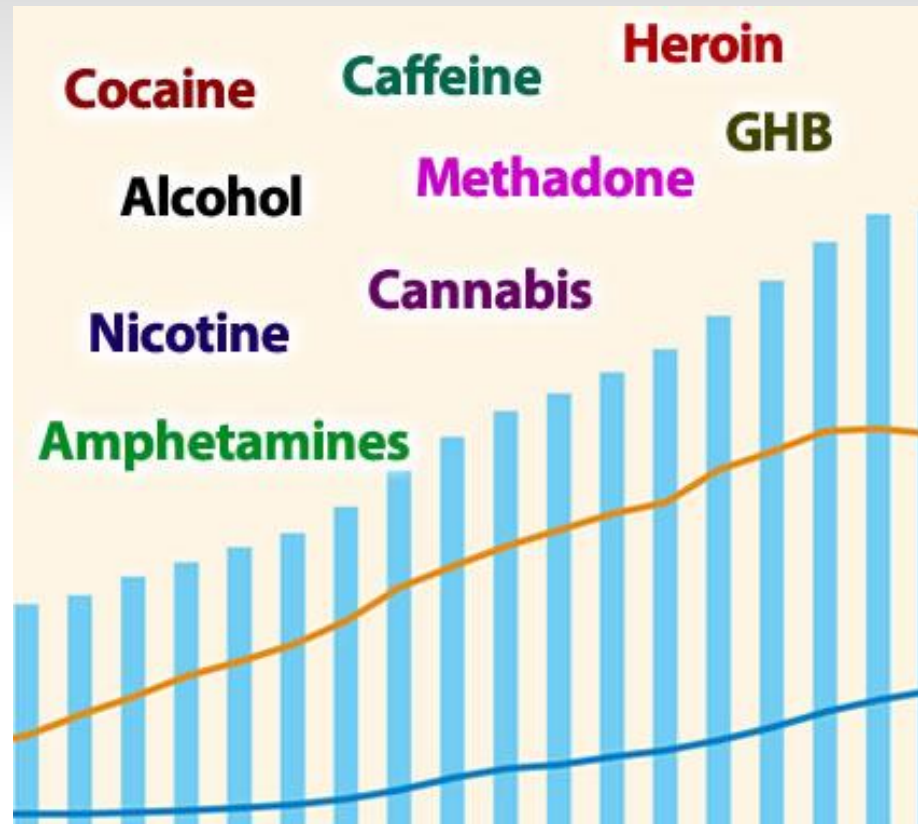
- Even so, cannabis is not toxic.
- No deaths have been recorded from overdosing.



What, Me Worry?

- With the historic increases in the dosages available in new strains of cannabis,
- And in particular because of the availability of edible products with even higher concentrations of the drug,
- We can expect future problems with misuse, abuse and addiction.





COMMON ADDICTIVE SUBSTANCES

Common Addictive Substances

- Nicotine
- Alcohol
- Heroin
- Cocaine
- Methamphetamine
- Prescription drugs (oxycontin, vicodin, codeine etc.)
- “Club drugs” (Ecstasy, GHB, rohypnol, etc.)
- Cannabis (included by most experts but distinguished by lack of physical addiction)



IDENTIFICATION OF PROBLEMS

Identification of Possible Misuse

- Some substance abuse problems are easier to identify: by appearance, by smell, by visible effects.
- Some can be inferred from behavior: consistent lateness, missed deadlines, slipping hygiene, forgetfulness, consistent excuses, irritability.
- Have you seen clients or people in court who appeared under the influence or suffering mental problems?



ALCOHOLISM COMPARED

Alcoholism Compared

- Recognized as an illness by the AMA.
- Symptoms of a misuse amounting to alcoholism (from AA list) offer an analogy for other drugs like cannabis:
 - It makes one “relax, be more social, feel confident/less anxious”
 - Just one to make the party “better”
 - Look forward to using it
 - Overdo it without intending to
 - Lie about using
 - Have blackouts, forget important things
 - Use it alone
 - Use it in the morning to feel better



Trust Me, I'm a Doctor

THE DISEASE MODEL

The Disease Model

- Substance dependence has been accepted as a **disease** since the 1960s and has these disease model characteristics:
 - Chronic- a permanent condition that can be arrested but not cured
 - Progressive-if untreated it gets worse
 - Often fatal-if left untreated can lead to death
 - Recognizable symptoms-the symptoms are recognizable without tests
 - Treatable-the condition cannot be cured but the progression of the disease can be arrested
- Virtually all drugs of abuse have common effects on a single pathway within the brain (the mesolimbic reward system) and can change physically change brain chemistry. How pervasive remains to be seen-can persist after abstinence.

I'M NOT SMOKING



I'M SOCIAL SMOKING

QUITTHEDENIAL.CA

DENIAL

Denial

- Characteristic of the disease of dependence
- Perception is distorted and addicts are increasingly unable to accurately see what is happening
- Denial may be perceived as dishonesty instead of distorted perception
- Mechanism to avoid embarrassment.

**ODDS ARE GOOD YOU
KNOW SOMEONE WITH
A GAMBLING PROBLEM**



1-888-789-7777

DEALING WITH THE PROBLEM

Dealing With The Problem

- Available treatments include:
 - Medications in some cases: Naltrexone blocks opioid receptors and reduces cravings-recently approved for treatment of alcoholics.
 - Behavioral treatments; including individual therapy and support groups
 - Out-patient and residential programs



RESOURCES AND SOURCES OF HELP

Resources

Lawyers assistance programs (“LAP”) address substance abuse, mental health, stress and “burn out”

- Confidential
- Provides a personal program for recovery that monitors progress
- Voluntarily entered if not subject to a current investigation

Common elements of a plan

- Attend a meeting AA, CA, NA, or other self help group
- Abstain from alcohol and drugs
- Attend weekly LAP meeting facilitated by a mental health professional
- Meet periodically with evaluation committee
- Regular contact with case manager
- Testing
- Three years for successful completion
- Family members are encouraged to participate in family treatment programs (Al-Anon, Adult Children of Alcoholics (ACA), Alateen

CONTACT INFORMATION

- 877-LAP-4HELP (877-527-4435)
- LAP@calbar.ca.gov



Resources

The Other Bar

- A network of recovering lawyers and judges dedicated to assisting others within the legal profession
- Confidential and voluntary
- Not a 12 step program
- Meetings are based on group conscience

CONTACT INFORMATION

- 1-800-222-0767
- Confidential@OtherBar.org

Resources

- Lawyers Assistance Program: **800-527-4435** or LAP@calbar.ca.gov
- The Other Bar: **800-222-0767** or www.otherbar.org
- Alcoholics Anonymous: **800-923-8722** or www.aa.org
- Al-Anon: **888-684-6444** or www.alanon.alateen.org
- Narcotics Anonymous: www.na.org

Sources

- Stanford, Mark, ed. *Professional Perspectives On Addiction Medicine*. Vol. 2. Lexington, 2009. Print.
- Holland, Julie. *The Pot Book: A Complete Guide to Cannabis : Its Role in Medicine, Politics, Science, and Culture*. Rochester, VT: Park Street, 2010. Print.
- Pollan, Michael. *The Botany of Desire: A Plant's Eye View of the World*. New York: Random House, 2001. Print.
- Booth, Martin. *Cannabis: A History*. New York: Thomas Dunne /St. Martin's, 2004. Print.
- Booth, Martin. *Opium: A History*. New York: St. Martin's, 1998. Print.

Keep In Touch



Hon. Jacqueline A. Connor

Case Manager: Ella Fishman
ella@adrservices.com
(310) 201-0010



Hon. James Lambden

Case Manager: Katy Jones
katy@adrservices.com
(415) 772-0900



Mitch Tarighati, Esq.

Case Manager: Eve Thorstens
eve@adrservices.com
(310) 201-0010