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## **Federal crackdown on medical pot sales reflects a shift in policy**

California's U.S. attorneys say they are going after for-profit marijuana sellers. Advocates of the sales say they are concerned about buyers with health needs.

By John Hoeffel

The Obama administration's crackdown on California's highly profitable medical marijuana industry represents a dramatic departure from the low-key approach it has long pursued.

California's four U.S. attorneys said Friday that they are taking aim at large-scale growers and dispensary owners who are raking in millions of dollars while falsely claiming that their medical marijuana operations comply with state law, which does not allow for-profit sales.

In the early days of President Obama's tenure, Atty. Gen. Eric Holder announced that prosecutors would not target medical marijuana users and caregivers, as long as they followed state laws. But as the risk of prosecution diminished, storefront dispensaries and enormous growing operations proliferated in California, often in brazen defiance of zoning laws and local bans.

"That is not what the California voters intended or authorized, and it is illegal under federal law," said Andre Birotte Jr., the Los Angeles-based U.S. attorney for the Central District. "It does not allow this brick-and-mortar, Costco-Wal-Mart-type model that we see across California."

The step comes as the Obama administration has been steadily ratcheting up enforcement efforts. Last month, a federal firearms official sent a letter to gun dealers warning them against selling to medical marijuana users. The last bank in Colorado willing to handle money from dispensaries closed those accounts last week, concerned about federal prosecution. And the Internal Revenue Service has begun to order some dispensaries to pay millions of dollars in back taxes and penalties, ruling that they can't deduct expenses because their business is illegal.

The prosecutors, who held a news conference in Sacramento to underscore their commitment to the campaign, said they are trying to enforce federal laws while respecting the intent of the state's voters, who passed the nation's first initiative to allow marijuana for medical purposes.

Birotte noted that his Southern California region is home to the highest concentration of dispensaries in the nation. "We have yet to find a single instance in which a marijuana store was able to prove that it was a not-for-profit organization," he said.

Medical marijuana advocates, including state Sen. Mark Leno (D-San Francisco), decried the intensified enforcement effort. "The concern here is that the intimidation factor will directly impact safe and affordable access for patients," he said.

The sudden escalation has baffled advocates who note that the use of medical marijuana now has broad popular support, as shown in nationwide polls. "From a political perspective, it's hard to see how this serves Obama's interest," said Ethan Nadelmann, executive director of the Drug Policy Alliance. "It feels like it's being driven by law enforcement and anti-drug folks."

The threat of stepped-up federal prosecutions could accomplish what city and district attorneys have so far struggled to achieve. The prosecutors are targeting landlords who rent to marijuana operations and could lose their property through civil forfeiture. "That hits right in the sweet spot because it deals with money," Birotte said.

The tactic was employed by the Bush administration in 2007. Many dispensaries were forced by landlords to move, but — able to pay top-dollar rents in a lousy economy — they easily found new locations. But Birotte said that this time, prosecutors intend to follow through with forfeitures. To underscore that, he announced that he has filed lawsuits to seize buildings in Wildomar, an unincorporated part of Montclair and Lake Forest. The Lake Forest strip mall has eight dispensaries.

The state's four federal prosecutors have each also sent dozens of warning letters. Birotte has focused on 38 dispensaries in 13 cities where dispensaries are not allowed and where local officials have pleaded for help. He gave them two weeks to start ending pot sales. In Northern California, the prosecutor is focusing on pot stores within 1,000 feet of schools and playgrounds, an approach that could threaten many dispensaries in dense Bay Area cities.

The prosecutors also announced some indictments. Birotte said an indictment unsealed this week seeks the forfeiture of \$14.7 million, accusing six people linked with NoHo Caregivers in North Hollywood of dealing in up to 700 pounds of marijuana a month and selling to affiliates in New York and Pennsylvania.

"They're showing their muscle: 'Here we are, we're here, we're coordinated, you guys better watch out,'" said Matt Kumin, a lawyer who specializes in medical marijuana. "The total amount of cannabis that is cultivated in California is not going to go down. It just goes back underground."

Birotte said the new strategy was not triggered by any specific event but was inspired by a stream of complaints from California law enforcement officials. The crackdown announced Friday came after months of consultation between the U.S. attorneys and Justice Department officials in Washington. The prosecutors acknowledged that they are not getting more money or prosecutors.

Steve Cooley, the Los Angeles County district attorney, predicted that intense coordination with federal prosecutors would make a huge difference. "It's advancing in the right direction from our perspective," he said. In Los Angeles, Jane Usher, a special assistant city attorney, said her office intended to work closely with Birotte's. "We're gratified that they see what we see, which is what began as an opportunity to help seriously ill patients has evolved into storefront drug sales and trafficking," she said.

California's attorney general, Kamala Harris, declined to discuss the announcement. Her office is revising the medical marijuana guidelines that Jerry Brown issued in 2008 when he was attorney general. Those guidelines note that state law does not allow "collectives, cooperatives or

individuals to profit from the sale or distribution of marijuana" and advises that storefront dispensaries "may be legal."

Medical marijuana advocates were also perplexed that a federal department reporting to Obama is launching a crackdown that promises to be more fearsome than any under former President Bush. They believe that Obama betrayed a commitment he made as a candidate who casually joked about smoking marijuana and has strayed from the issues he was elected to address.

"They're wasting money they don't have," Leno said. "This is not the issue of the day. This doesn't create jobs. This does not keep the security of the nation intact. It doesn't clean the environment."

Leno said he believed the Obama administration has missed an opportunity to end the 15 years of legal chaos that began in 1996 when California voters passed Proposition 215. "If anything, they should be demonstrating leadership in resolving the conflict between federal and state laws," he said. "Until we deal with that, we're going to be going around in circles here."