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Committee Secretary Senate Legal and Constitutional Affairs Legislative Committee PO Box 6100 Parliament House Canberra ACT 2600

Submission to the Senate Legal and Constitutional Affairs Legislation Committee regarding the Regulator of Medicinal Cannabis Bill 2014

I am a member of the board of PainAustralia. I am taking the liberty of making this submission to the Senate Legal and Constitutional Affairs Legislation Committee regarding the **Regulator of Medicinal Cannabis Bill 2014**, as I do not support the submission made by PainAustralia, which was approved by the majority of the board.

At the outset I should state that, although I am a director of PainAustralia, I am not a medical practitioner. I am a retired judge, having been a judge for over twenty years (about eleven and a half years in the Supreme Court of Western Australia and nine years in the Court of Appeal of the Supreme Court of New South Wales), and Commissioner of the Independent Commission of Corruption in New South Wales (ICAC) for just over four years. I retired as a judge in 2009 and as commissioner of ICAC in 2013.

My submission is essentially as follows:
I support the use of medicinal cannabinoids in palliative care cases, in people with unrelieved cancer pain, and people with severe tissue damage. In other cases, I support the use of medicinal cannabinoids where all other forms of severe pain control have failed.
All use of medicinal cannabinoids should be subject to the following:

1) The term “medical cannabinoids” should be defined to the satisfaction of the appropriate authoritative medical bodies.

2) The use of medical cannabinoids should be properly regulated (“regulated” meaning governed by legislation - that is, by statute and, if

necessary in regard to minor detail, by ministerial regulation).

3) The use and distribution of medical cannabinoids should be properly controlled (so as to avoid the errors that are apparent in the use and distribution of opioids). Supervision of use and control would have to involve legislation, and include appropriate penalties for breaches, applicable to those who prescribe medical cannabinoids inappropriately. Such breaches should in defined circumstances constitute professional misconduct.

I turn now to the grounds which, I contend, support the submission which I have made.

Rationally, objection to the use of medicinal cannabinoids can only be made on one or more of the following grounds:

1) Its use would not relieve pain.
2) Its use could be harmful to the consumer.
3) Its use could lead to addiction on the part of the consumer.
4) Its use would be otherwise detrimental to society.

One can dispose of the first objection immediately. None of the medical bodies involved in the alleviation of pain contends that medical cannabinoids do not have the potential to relieve pain.

Dealing with the proposition that the use of cannabinoids could be harmful to the consumer, the point basically made by the PainAustralia majority is that cannabinoids have as yet not been subjected to stringent and recognized medical and pharmaceutical testing. Thus, one does not know what the effects of cannabinoid use on the consumer would be. I respectfully submit that that the majority's proposition has to be regarded with considerable skepticism.

The use of cannabis in the western world is well-known and is of very long-standing. Obviously, harm to the consumer can occur if use is not

controlled and properly limited. Nevertheless, condition 3, which I have above proposed, would effectively combat improper use. In condition 3, I have suggested that the use and distribution of medical cannabinoids should be properly controlled and supervised (including by appropriate members of the medical profession. I have suggested that legislation should provide for appropriate deterrents against improper supply and use.

Once medical cannabinoids for the relief of pain can only be distributed under strict conditions (properly supervised), can only be prescribed by medical practitioners under closely defined circumstances and can only be used under strict supervision, the prospect of use of medical cannabinoids causing harm to the consumer is remote.

In any event, any degree of harm that might conceivably be suffered by the consumer, in the strictly controlled and supervised environment that I suggest, is far outbalanced by the harm that the users envisaged (those who are in palliative care and who are in any event dying, those who are suffering from unrelieved cancer pain or pain caused by severe tissue damage or in other circumstances where all other forms of severe pain control have failed) would suffer by being prevented from having access to pain relief from medical cannabinoids, properly prescribed.

I understand that some of the medical bodies have refused to support the use of medical cannabinoids for the relief of cancer pain as it is difficult to determine whether the pain is caused by the cancer itself or the treatment for the cancer. The distinction the medical bodies seek to draw is elusive. There can be no difference to the sufferer if the pain that is relieved is due to the cancer or its treatment. The notion that cancer sufferers could theoretically be allowed the use of medical cannabinoids if their cancer causes their pain, but not where the pain is caused by the treatment of the cancer, defies common sense.

Coming to the objection that use of medical cannabinoids could lead to

addiction on the part of the consumer, everything I have submitted above in regard to other harm that the pain sufferer might incur applies here. In addition, I would draw attention, also to the following:

Firstly, to deny the use of medical cannabinoids to those in palliative care on the ground of potential addiction is ridiculous. Secondly, the use of opiods for pain relief is now common practice. There is no logical ground to allow the use of opioids for this purpose, but not medical cannabinoids. Indeed, cannabinoids are potentially less harmful than opiods. I realize that, amongst some, there is a degree of abuse in the use of opiods for pain relief. But that is a failure in control and supervision, not in the use of opiods, per se. Thirdly, the prospect of a user becoming addicted to cannabinoids, is something that, in the case of those in the categories to which I have referred (that is, those, in the circumstances I have stated above, who suffer from severe and otherwise unrelieved pain) should be catered for in the prescription and supervision of the medical cannabinoids.

Finally, the objection that the use of medical cannabinoids would be otherwise detrimental to society is answered by what is set out above.

I am not sure if this submission is out of time. Any delay in making it has been caused by the time at which PainAustralia determined the details of the submission it would make. I only became aware of the PainAustralia submissions two days ago. In the circumstances, I would respectfully ask that the Committee consider my submissions.

Yours sincerely,

The Hon David Ipp AO QC