

Changing Minds/Changing Policy

By Patrick Kenneally

Patrick Kenneally has served as McHenry County State's Attorney since 2016. Patrick began his career as a prosecutor after being hired by Lou Bianchi in 2007 as an assistant state's attorney. He worked his way from traffic court to special prosecutions, and in 2016 Patrick was named McHenry County First Assistant State's Attorney. Patrick has tried over 90 cases at all levels of the justice system. Patrick earned Turning Point's Peace and Justice Award for his work as a domestic violence

In September of 2023, cannabis dispensaries in McHenry County, Illinois became the first in the country to be required to warn customers through in-store signage of the mental health dangers of cannabis and abstain from marketing their products as medicine. The dispensaries agreed to these consumer protections as part of a settlement with the McHenry County State's Attorney's Office, the office I run, in lieu of facing the consumer fraud action.

The path to this settlement was somewhat of a personal journey for me. When I became the state's attorney in 2016, McHenry County was in the clutches of the opioid epidemic. Cannabis and the prospect of legalization was not my focus. Some constituents, however, began expressing grave concerns over the groundwork for legalization being laid in Illinois.

While I did my best to ape their concern, as any good politician would, in the back of my head I was thinking, "settle down Poindexters, who cares!" "A little marijuana is basically harmless unless you're a bag of Doritos. We got bigger problems."

As Illinois began pushing for cannabis legalization in earnest in 2019, more and more constituents, however, began confronting me over the fact that, apparently, I was not doing nearly enough to use my platform to sound the alarm.

Somewhat exasperated, I thought I would do my own cannabis research so I could refute the bleak forecast of these chicken littles that seemingly would not leave me alone.

The first thing I realized during my investigation was that everything cannabis purveyors said to justify legalization was a lie. No, cannabis had nothing to do with mass incarceration because no one, ever, was being imprisoned for possessing a small amount of cannabis. No, tax proceeds from cannabis would not meaningfully assist in paying off Illinois' \$300 billion debt. No, cannabis legalization would not further social justice but would worsen the plight of the most vulnerable in our society. No, cannabis does not make users freer, just the opposite. No, cannabis is not harmless, it is devastatingly dangerous, especially to mental health.

What I was unprepared for was the venality, lawlessness, and downright malice of the cannabis industry.

Passing the cannabis bill was not the result of the best argument winning out after a robust debate in the Illinois legislature. The bill was written by the powerful D.C. lobby that the Governor's sister was heading up and the cannabis industry had lavished hundreds of thousands on legislators to shore up support.

Since legalization, the defining feature of the dispensaries' sales strategy has been marketing cannabis as medicine capable of treating those disorders that have defined our age - depression, anxiety, post-traumatic stress disorder, and bipolar. This entire marketing strategy is a complete delusion. Cannabis is not medicine, but a noxious substance that causes or exacerbates the mental health disorders it purportedly treats.

We must pause here and allow the cruelty of this sales strategy to truly resonate. They are manipulating those already in the throes of suffering and desperate for relief into purchasing a product that will only cause them to suffer more.

Not only is this strategy cold-blooded, it's illegal. By the very terms of the bill that legalized recreational cannabis, cannabis companies cannot make any "medicinal, therapeutic, or health" claims about cannabis.

Much like the atheist who picks of a Bible to disprove its claims and is on fire with the Holy Spirit by the time he closes Revelation, by the time I had finished doing my research on cannabis, I was not only terrified, I had been totally converted and knew something had to be done.

I began screen-shooting the most egregious examples of the illegal marketing on dispensary websites in McHenry County (e.g. “this sativa-indica hybrid is perfect for those suffering from bipolarity”).

After showing the dispensaries the screenshots and pointing out the provision of the law that the dispensaries were flagrantly violating, it did not take much to move them from a contentious to conciliatory posture with respect to our potential lawsuit. We settled quickly.

In addition to warning customers of the mental health dangers and no longer making health claims, we negotiated \$100,000 payable to the McHenry County State’s Attorney’s Office to conduct a public education campaign on the dangers of cannabis.

The one thing I learned is that the cannabis industry is not the fearsome leviathan I had presumed. Rather, they are fairly disorganized, are not working together, and have only a tenuous understanding of the liabilities they face. Where fawning state governments are unwilling to do anything that would threaten the “golden goose,” local governments have several tools in their arsenal, not the least of which is zoning and powers under consumer fraud statutes, to protect residents. Contact your local representatives about what they are doing to make sure those buying cannabis locally are doing so with informed consent and do not give up until they respond.

In addition, personal injury litigation against big cannabis is inevitable. I would be happy to speak with anyone injured by cannabis use (i.e. developed psychosis, depression, anxiety, etc.) about their options in this regard. Feel free to reach out at pdkenneally78@gmail.com.