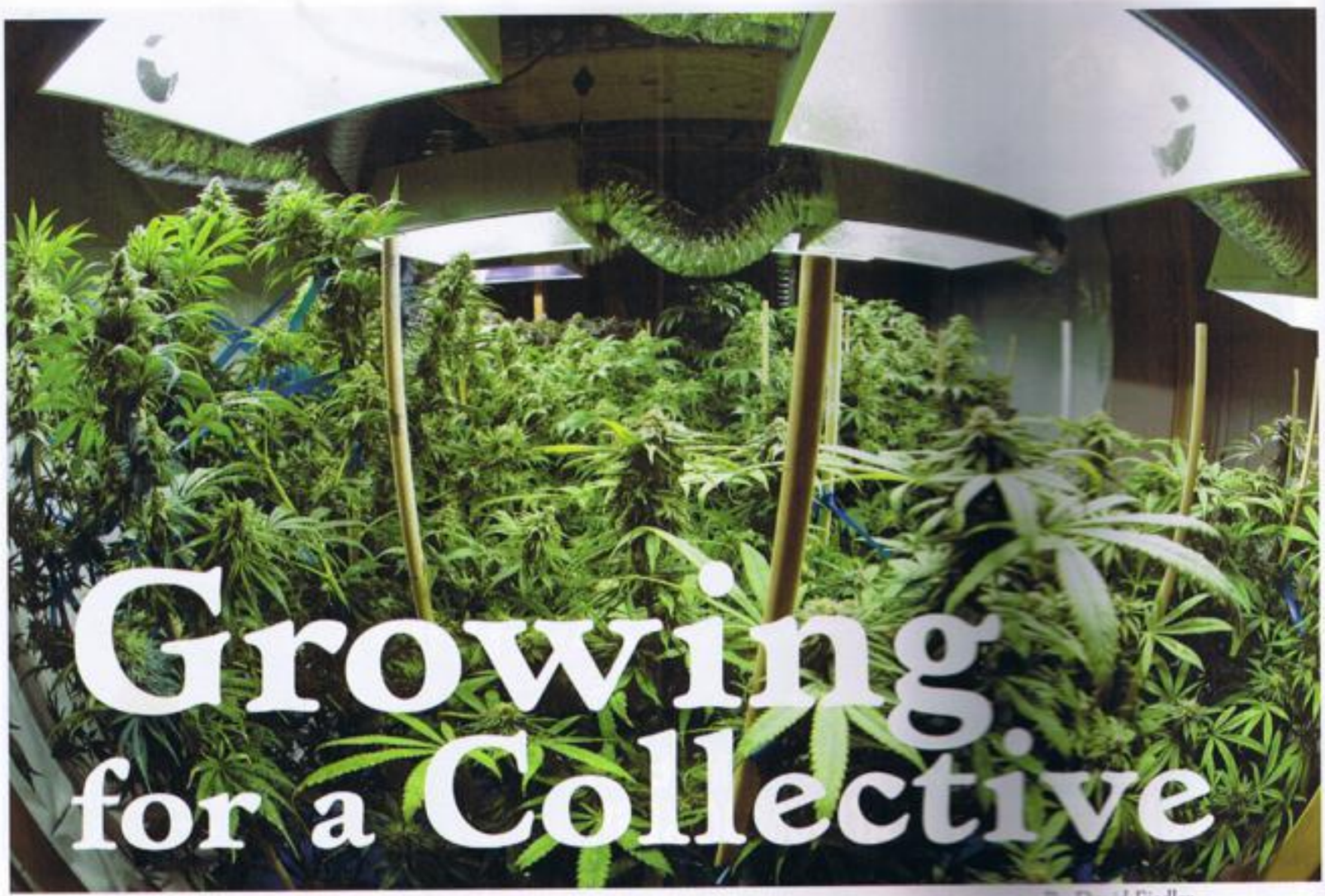

Growing for a Collective

By David Fiedler

Growing medical marijuana for a collective of other patients can be both personally and financially rewarding, but if you're just in it for the money, you'll probably be tempted to break California law sooner or later, and then you'll end up in a world of hurt.

Even if you follow California law scrupulously like most people try to do, recent decisions and announcements by the Federal Department of Justice mean that serious growers will be under more scrutiny. Check online news at The420Times.com to keep up with the latest developments.

Collective? Caregiver? Dispensary?

As noted in the article Growing Your Own: California Legality And Reality, Jerry Brown wrote a memo three years ago when he was California Attorney General that's still used today as a set of guidelines by state District Attorneys. Entitled "Guidelines For The Security And Non-Diversion Of Marijuana Grown For Medical Use", it lays out some definitions that anyone in this business must understand.

> *A primary caregiver is a person who is designated by a qualified patient and "has consistently assumed responsibility for the housing, health, or safety" of the patient…Although a "primary caregiver who consistently grows and supplies . . . medicinal marijuana for a section 11362.5 patient is serving a health need of the patient," someone who merely maintains a source of marijuana does not automatically become the party "who has consistently assumed responsibility for the housing, health, or safety" of that purchaser. (People ex rel. Lungren v. Peron (1997))*

Under California law, medical marijuana patients and primary caregivers may "associate within the State of California in order collectively or cooperatively to cultivate marijuana for medical purposes." The word "cooperative" has a very specific and legally-defined meaning:

> *A cooperative must file articles of incorporation with the state and conduct its business for the mutual benefit of its members. No business may call itself a "cooperative" (or "co-op") unless it is properly organized and registered as such a corporation under the Corporations or Food and Agricultural Code.*

On the other hand, the word "collective" is not defined anywhere in California law! But according to the memo:

> *A collective should be an organization that merely facilitates the collaborative efforts of patient and caregiver members – including the allocation of costs and revenues. As such, a collective is not a statutory entity, but as a practical matter it might have to organize as some form of business to carry out its activities. The collective should not purchase marijuana from, or sell to, non-members; instead, it should only provide a means for facilitating or coordinating transactions between members.*

Finally, we should take a look at the word "dispensary":

> *Although medical marijuana "dispensaries" have been operating in California for years, dispensaries, as such, are not recognized under the law. As noted above, the only recognized group entities are cooperatives and collectives. It is the opinion of this Office that a properly organized and operated collective or cooperative that dispenses medical marijuana through a storefront may be lawful under California law, but that dispensaries that do not substantially comply with the guidelines set forth...are likely operating outside the protections of Proposition 215 and the MMP, and that the individuals operating such entities may be subject to arrest and criminal prosecution under California law.*

Our final quote from Brown's guidelines is quite relevant to the topic of growing:

> *Collectives and cooperatives should acquire marijuana only from their constituent members, because only marijuana grown by a qualified patient or his or her primary caregiver may lawfully be transported by, or distributed to, other members of a collective or cooperative. The collective or cooperative may then allocate it to other members of the group. Nothing allows marijuana to be purchased from outside the collective or cooperative for distribution to its members. Instead, the cycle should be a closed-circuit of marijuana cultivation and consumption with no purchases or sales to or from non-members.*

What to Do?

So, if you plan to just grow for yourself and a few other patients you're the primary caregiver for, you shouldn't run into any problems as long as you stay within the limits of your local laws. Once you decide you're going to grow large quantities and sell the excess back to any collectives or dispensaries you might be a member of, you're entering a different world.

It's a very competitive market right now, in spite of the fact that all collectives and dispensaries must be non-profit by law. Many of the top dispensaries insist on testing of all cannabis – not only to see the THC/CBD/CBN ratios, but also to make sure there's no pesticide residue, mold, and so on. This is no place for amateur growing: spider mite signs, dog or cat or human hairs, mildew, or bad curing will knock your batch of weed out of the running. You'll probably be expected to supply at least 3 to 5 pounds minimum, and you're probably going to bear the cost of some or all of this testing.

This is the beginning of treating medical marijuana as real medicine in the marketplace, and ensuring its consistency, uniformity, and strength.

100 Will Get You 5

You should always consult an attorney before getting involved in growing marijuana, especially if you're growing commercial quantities or for other people. As most people know by now, growing more than 99 plants at once sets you up for possible Federal prosecution. This will guarantee you at least five years in Federal prison upon conviction due to minimum sentencing laws.

So the limit is said to be "99 plants", but the recent high-profile case of Dr. Mollie Fry and Dale Schafer proves that to be a fantasy, as the prosecutors simply added up the plants they grew for three years all together to make 109. What not everyone realizes is that the government makes the rules, so they can change them however they want.