Feds order California medical marijuana dispensaries to shutdown

SAN FRANCISCO (AP) — Federal prosecutors have launched a crackdown on pot dispensaries in California, warning the stores that they must shut down in 45 days or face criminal charges and confiscation of their property even if they are operating legally under the state's 15-year-old medical marijuana law.

In an escalation of the ongoing conflict between the U.S. government and the nation's burgeoning medical marijuana industry, at least 16 pot shops or their landlords received letters this week stating they are violating federal drug laws, even though medical marijuana is legal in California. The state's four U.S. attorneys were scheduled Friday to announce a broader coordinated crackdown.

Their offices refused Thursday to confirm the closure orders. The Associated Press obtained copies of the letters that a prosecutor sent to at least 12 San Diego dispensaries. They state that federal law "takes precedence over state law and applies regardless of the particular uses for which a dispensary is selling and distributing marijuana."

"Under United States law, a dispensary's operations involving sales and distribution of marijuana are illegal and subject to criminal prosecution and civil enforcement actions," according to the letters signed by U.S. Attorney Laura Duffy in San Diego.

"Real and personal property involved in such operations are subject to seizure by and forfeiture to the United States ... regardless of the purported purpose of the dispensary."

The move comes a little more than two months after the Obama administration toughened its stand on medical marijuana. For two years before that, federal officials had indicated they would not move aggressively against dispensaries in compliance with laws in the 16 states where pot is legal for people with doctors' recommendations.

The Department of Justice issued a policy memo to federal prosecutors in late June stating that marijuana dispensaries and licensed growers in states with medical marijuana laws could face prosecution for...
violating federal drug and money-laundering laws. The effort to shutter California dispensaries appeared to be the most far-reaching effort so far to put that guidance into action.

"This really shouldn't come as a surprise to anyone. The administration is simply making good on multiple threats issued since President Obama took office," said Kevin Sabet, a former adviser to the president's drug czar and a fellow at the University of Pennsylvania's Center for Substance Abuse Solutions. "The challenge is to balance the scarcity of law enforcement resources and the sanctity of this country's medication approval process. It seems like the administration is simply making good on multiple statements made previously to appropriately strike that balance."

Greg Anton, a lawyer who represents dispensary Marin Alliance for Medical Marijuana, said its landlord received an "extremely threatening" letter Wednesday invoking a federal law that imposes additional penalties for selling drugs within 1,000 feet of schools, parks and playgrounds.

The landlord was ordered to evict the 14-year-old pot club or risk imprisonment, plus forfeiture of the property and all the rent he has collected while the dispensary has been in business, Anton said.

Marin Alliance's founder "has been paying state and federal taxes for 14 years, and they have cashed all the checks," he said.

"All I hear from Obama is whining about his budget, but he has money to do this which will actually reduce revenues."

Kris Hermes, a spokesman for the medical marijuana advocacy group Americans for Safe Access, said the warnings are part of what appears to be an attempt by the Obama administration to curb medical marijuana on multiple fronts and through multiple agencies. A series of dispensary raids in Montana, for example, involved agents from not only the FBI and U.S. Drug Enforcement Agency, but the Internal Revenue Service and Environmental Protection Agency.

Going after property owners is not a new tactic though, Hermes said. Five years ago, the Department of Justice under President George W. Bush made similar threats to about 300 Los Angeles-area landlords who were renting space to medical marijuana outlets, some of whom were eventually evicted or closed their doors voluntarily, he said.

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"It did have an impact. However, the federal government never acted on its threats, never prosecuted anybody, never even went to court to begin prosecutions," Hermes said. "By and large, they were empty threats, but they relied on them and the cost of postage to shut down as many facilities as they could without having to engage in criminal enforcement activity."

Besides the dozen dispensaries in San Diego and the one in Marin County, at least three shops in San Francisco already have received closure notices, said Dale Gieringer, director of the California chapter of the National Organization for the Reform of Marijuana Laws.

The San Diego medical marijuana outlets put on notice were the same 12 that city officials sued last month for operating illegally, after activists there threatened to force an election on a zoning plan adopted to regulate the city's fast-growing medical marijuana industry, City Attorney Jan Goldsmith said. A judge on Wednesday ordered nine of the targeted shops to close, while the other three shut down voluntarily, Goldsmith said.

Duffy, the U.S. attorney for far Southern California, planned to issue warning letters to property owners and all of the 180 or so dispensaries that have proliferated in San Diego in the absence of compromise regulations, according to Goldsmith.

"The real power is with the federal government," he said. "They have the asset forfeiture, and that means either the federal government will own a lot of property or these landlords will evict a lot of dispensaries."