THE WEEK IN MARIJUANA (APRIL 24-28, 2017): "HIPPIES AND STONERS?...THIS IS ABOUT MEDICINE"

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As the Red Queen said to Alice in Lewis Carroll's "Through the Looking Glass," "Now, here, you see, it takes all the running you can do, to keep in the same place."

More concerns and arguments on both sides of the issue were heard this week as the current session hurtles toward the finish line, and still there appears to be a stagnation as both the House and Senate have differing Bills, and the majority of the public who testify are still dissatisfied. It has become abundantly clear to all who have been following this issue since the voters approved Amendment 2 that there will be dissatisfaction on whatever is passed and on whichever side of the fence one stands.

House Bill 1397, as amended by Majority Leader Ray Rodrigues was heard, and subsequently approved, by the Health and Human Services Committee on Monday afternoon. As per the norm, proponents of Amendment 2 would prefer a less regulated and less restrictive version. There was argument that the House adopt, in part, the Senate plan which would eliminate the 90-day wait period before an order for medicinal marijuana could be issued by a physician who is seeing a patient. The 90-day waiting period was explained as being in response to Florida's former "pill mill crisis," (Florida aggressively engaged pill mills which consisted of unethical doctors writing numerous opioid prescriptions for people without regard for their well-being, that led to an epi9demic of illicit opioids flooding the black market) in an effort to prevent doctors from simply writing orders for medicinal marijuana without having developed a meaningful doctor-patient relationship with. The Committee did say it was amenable to reducing the 90-day waiting period, but would do so only upon the presentation of persuasive evidence.

There was also criticism that the House Bill would not permit edibles as a delivery option. Opponents, however, argued that edibles would take the longest for the marijuana to be absorbed into the body, and often leads to complications (see Colorado and Oregon where consumers of edibles have overdosed by not waiting for the edible to take effect before consuming more of the product) as the effect is not felt immediately so additional quantities are consumed leading to a possible overdose. The cannabis oil though could be added to liquids or drizzled on different foods for those who may have trouble consuming the medicine in a more traditionally acceptable delivery mechanism. To that end others urged for exploring transdermal patches and even measured doses in inhalers.

Perhaps the most compelling argument for proponents came in the form of testimony regarding a young cancer patient who while on chemo was often violently ill and was placed on numerous opioids, steroid and narcotics. Having lost 50% of his body weight, he eventually could not walk due to pain in his legs. After being administered cannabis oil, he is no longer tethered to those drugs, is eating again and gaining weight. It has made his chemotherapy more bearable, and he is virtually pain free.

The dispute concerning the number of medical marijuana treatment centers ("MMTCS's", the new term of art in Amendment 2 for the producers/grower facilities) continued with some calling for more information on the existing organizations providing information on how they can manage the expected increase in patients. The current seven are able to adequately handle the Charlotte's Web variety of low-THC cannabis but there is growing skepticism that they would be able to service an increased patient population. An increased number of could lead to greater competition and thus a reduction in cost which some estimate could run as high as $3,000/month (although it can be obtained cheaper in states in which there are more producers/growers). Related to this, proponents of the vertical integration business model believed it would offer more transparency as opposed to a horizontal model in which there would be dispensaries other than those tied directly to a producer/grower.

There was a newly argued concern that without drug testing of patients there is the possibility of unfavorable drug interactions with other prescribed medications causing complications. Related to this, the Bill also points to a prohibition of ordering medical marijuana for pregnant women due to fears of the effects it may have on the fetus and newborn. This would necessitate all women (presumably of child bearing age) being subjected to a pregnancy test prior to obtaining an order.

Finally, a member of the public commented that "people expected smoking when they voted for Amendment 2." It is an interesting comment, because there is no language in the Amendment that mandates or offers smoking as an alternative delivery method.

Senate Bill 406 has been more favorably viewed by medicinal marijuana advocates, in large part because the 90-day waiting period requirement has been removed. It also "grandfathers" in the original five (now seven) MMTC's and allows for five more by October 3, 2017 (with one being awarded to an African-American farmer). This is being done to increase competition and to possibly reduce the overall cost of the product, that incidentally will not be covered by health insurance. It would also allow for an additional four MMTC's per 75,000 patients. The Bill keeps a limit on the number of dispensaries to three for each MMTC. Also, the Department of Health is being tasked with certifying testing facilities to ensure that products are safe. This was a timely measure as there was some public testimony on the House Bill wherein a speaker testified to having received old and crystalized oil from an existing MMTC.

(Again - As of the writing of this blog, there may be additional developments not reflected herein).

For more information on this topic, please contact the author, Colin Roopnarine, on the firm's Government and Regulatory team.

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