

# South Florida Hospital News<sup>®</sup> and HEALTHCARE REPORT

THE REGION'S MONTHLY NEWSPAPER FOR HEALTHCARE PROFESSIONALS & PHYSICIANS

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## It's Voting Time

Six licenses, 315 patients, 150 doctors. These are the numbers related to the current law in the State of Florida regarding medical marijuana. The low THC high CBD cannabis is currently allowable for patients recommended by a physician who are suffering from cancer or a physical condition which chronically produces symptoms of seizures or severe and persistent muscle spasm. Cannabis with higher levels of THC is permitted for the terminally ill under the Right to Try Act.

On November 8, 2016, voters who have not already done so will vote on Amendment 2, a measure which allows for a broadening of the qualified conditions for the use of cannabis containing THC in the State of Florida.

A few weeks back I spoke at a meeting of government officials where the panelists before me were disseminating propaganda and severely false information. If you are undecided on Amendment 2 and some of its effects, a particularly good read may be found in the recently authored document Amendment 2: Analysis and Intent, written by John Morgan, Esq., Hon. John L. Mills, Esq., Tamar Todd, Esq., and Ben Polara.

The question that I have heard for over two years has been "what can I do to



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prepare for life after Amendment 2, should it pass?" Based on polling, it appears that the question will now turn to one which is "Amendment 2 just passed. What can I do to get ready for the impending opportunities and challenges to participate in this market?" In answering this question it is often important to identify one's potential audience.

Trying to narrow the answer to readership who may be currently reading my words, I would break down the audience into three sections. One, hospitals; two, physicians; three, potential cannabis business entrepreneurs. Taking hospitals first, hospitals may actually do nothing. Ostensibly, hospitals may wish to determine how to treat patients who may experience some adverse effects from marijuana based on naive usage as may have been experienced in other jurisdictions. From the business perspective, hospitals will very likely be approached by potential license holders who are seeking to enter into strategic partnerships, research studies, and the development of certain delivery methods, i.e., trans dermal patches or sublingual delivery, pills or other time-release methods.

There may be a desire to study patient statistics in some form with teaching hospitals in particular being provided money for fellowships for some type of

research. There will be a period of time after the Amendment is passed, should it pass, to have these discussions and for hospitals to make policy decisions. Hopefully this time will be used to look at other states and how institutions have dealt with some of these issues rather than reinventing the wheel, but using the experiences from those states to potentially emulate and surpass that which has come before.

Physicians are the next group who may consider some involvement from a practitioner's standpoint in seeing patients and providing certifications once the conditions have been authorized pursuant to the Amendment. While the Compassionate Use Act requires physicians to take an 8 hour course in order to make recommendations and put a patient on the Registry, the Amendment does not contain such a limitation and, in fact, defines the physician as a "person who is licensed to practice medicine in Florida".

It is possible that through the legislature and the enabling guidelines in conjunction with the Department of Health, some additional hurdles may be placed on physicians similar to those under the Compassionate Use Act; however that over-regulation may very well be subject to a legal challenge. Should no additional guidelines be placed on the definition of "physician" and their ability to recommend to patients, it is certainly foreseeable that a more broad and robust physician-patient relationship status will be had post

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Amendment 2.

Lastly, there has been much confusion and lack of information as to what type of businesses would be permitted to operate in Florida after Amendment 2. The range of opinions and beliefs runs the gambit starting with nurseries maintaining their control over licenses and maintaining a vertical model which we have seen operating since the middle of 2016.

The Analysis of Intent recently released and discussed herein, sets forth the position taken by the proponents of Amendment 2 as to the intent behind the Constitutional Amendment. In addressing what a Medical Marijuana Treatment Center (“MMTC”) is, the authors of the document set forth:

“This amendment allows for MMTCs to register with the Department of Health to engage in a variety of discreet activities as outlined. MMTCs must be registered to engage in any activities listed in the

definition, but do not have to engage in all of them. For example, a cultivator may be registered separately from a dispensary. Some of the activities listed may overlap between the various MMTCs (such as possessing medical marijuana), the Amendment provides for multiple types of MMTCs, including but not necessarily limited to, cultivation, processing, distributing, dispensing, transportation, and administration. This language allows for cross-ownership of MMTCs, but does not require

any cross-ownership of MMTCs. The requirement that a single MMTC must perform all MMTC functions would be contrary to the language and intent of this Amendment, which clearly calls for a variety of business functions in the language. The Amendment also allows the legislature to set reasonable limits on ownership of multiple MMTCs by any

operator.

This ownership structure is intended to foster and support the sufficient availability of medical marijuana, reasonable costs, and safe use for qualified patients.”

This language certainly points to a more robust market and potentially sets the stage for a show-down between the nursery interests which have taken a foothold of the Compassionate Use Act and proponents of a broader market which will serve both business interests and ultimately patients based on access and pricing. In the meantime, start your business plans.

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