

## Charlotte's Web Rules Hearing Round Two

This past Friday, August 1, 2014, the Florida Department of Health's Office of Compassionate Use held its second public meeting on its draft rules for the recent legalization of the particular strain of marijuana commonly known as "Charlotte's Web."

Last meeting, the Department heard extensive commenting on the following issues: 1) the availability of only five-licenses and the relegation of each license holder to operate within one region (NE, NW, C, SE, SW); 2) the lottery process (as opposed to a merit-based process) that will determine which applicant receives the license in each region; 3) the time limits for submitting the application (originally 10 days from the finalization of the rules) and initial product distribution (originally 120 days); and 4) the corporate organization requirements of the applicant.

It is clear that the Department was listening. The most recent draft rules addressed the abovementioned issues as follows: 1) the license holder may develop a transportation plan to deliver up to a 30-day supply of their product to qualified patients throughout the state; 2) applicants have to reach a higher threshold of competency before being considered for the lottery (e.g., applicants now must submit a detailed cultivation, processing, and dispensing plan, a security plan, and a quality assurance plan); 3) time limits for submitting the application and initial product distribution have been extended to 15 days and 150 days, respectively; and 4) a nursery must have at least a 25% ownership interest in the applicant-entity.

In this meeting, interested parties were overtly thankful for the Department's many clarifications to the rules in the second draft. However, as expected, commenters addressed a slew of new issues (and clarification to old ones). The most common issues commentators raised were as follows. First, commentators across the board remained against the lottery requirement, despite the additional threshold requirements. Second, commentators stressed the need to have dispensaries at separate locations from their grows. Whether commentators supported or opposed the new transportation plan, there was virtual agreement that in addition to allowing for product delivery, practical and safe operation of the business calls for the allowance of multiple locations of operation. Third, commentators requested clarification on whether an applicant with a qualified nursery in one region can apply for a license in a separate region. It is clear that a qualified nursery can only participate in one application. But, it is not clear whether, for example, a qualified nursery in the southeast region can choose to apply for the northeast license.

The Department of Health has until January 1, 2015 to put in place the proper processes and regulations to carry out the law. In the meantime, interested parties will have to find the right balance between remaining flexible yet prepared to act quickly once the Department finalizes its rules, which could be approaching very soon.

Notably, unlike the last meeting, the Department did not reveal whether there would be another commenting period for the next draft of the rules. This might be an indication that the next "draft" will actually be the final, proposed rules. If that is the case, the only avenue for affecting the rules would be through a formal challenge. Once a group or groups bring a formal challenge, the promulgation of the rules could be significantly

delayed.

*\*The above article assumes the reader has a basic understanding of the fundamental legal and regulatory landscape that currently exists related to medical marijuana in Florida. For helpful background information, please refer to our previous article on this topic – “Medical Marijuana in Florida from 10,000 Feet” – which you can find at <http://www.ioppololawgroup.com/wp-content/uploads/2014/07/Medical-Marijuana-in-Florida-From-10000-Feet.pdf>.*

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*The Ioppolo Law Group, PLLC (“ILG”) has been representing both Florida-based and national groups in their pursuance of medical marijuana licenses for the past year. ILG’s representation ranges from regulatory compliance, government affairs and business consulting to creating corporate and financial structures and building teams. Please do not hesitate to contact us at 407 936 3672 or [alukis@ioppololawgroup.com](mailto:alukis@ioppololawgroup.com) for a consultation. Also, please feel free to visit our website at [www.ioppololawgroup.com](http://www.ioppololawgroup.com) to explore our medical marijuana resource page and to sign up to receive our alerts.*

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