

## **With Less Than A Week Away From Vote On Amendment 2, Debate Over Charlotte's Web Rules Remains Unresolved**

The big day for those keeping a close eye on medical marijuana in Florida is less than a week away. Next Tuesday, November 4, Florida voters will either choose to vote "yes" or "no" on Amendment 2, which proposes to legalize the use of medical marijuana to treat debilitating medical conditions as determined by a licensed physician.

Meanwhile, the debate over the rules to regulate § 381.986, Florida Statutes, commonly known as the "Charlotte's Web" law, remains unresolved. In late September, several parties joined to bring a challenge to the Florida Department of Health's proposed rules to regulate Charlotte's Web in Florida. The challenge claims that the Department's proposed rules step outside the bounds of the Department's implementing authority (§ 381.986) or is otherwise invalid for being arbitrary and capricious. Specifically, the challenge claims that the Administrative Law Judge should find the following three areas of the Department's proposed rules invalid: 1) the Department's proposed use of a lottery system (as opposed to a merit-based system) to choose which applicants to award licenses; 2) the proposed ownership structure of an applicant-entity; and 3) requirements for applicants to demonstrate financial ability. In response, the Department claims that its proposed rules were directly within the bounds of its implementing authority and demonstrate a thoroughly contemplated and well-thought out approach to a difficult policy undertaking.

The Administrative Law Judge has held a two-day hearing on the matter and as of yesterday has received proposed orders from each side. The Judge has until November 30 to issue a ruling. If the Judge upholds the Department's proposed rules, the Department would (presumably) immediately file the proposed rules as currently written and the rules would take effect 20 days thereafter. If the Judge finds that the Department's proposed rules are invalid, the Department will have to issue a notice of rule change and propose a new set of rules, which will be subject to another challenge.

To add another wrinkle to the issue (in case you didn't think there were enough), if Amendment 2 passes next week, there is always the possibility of the Governor calling a special session to address its implementation. If *that* happens, the Florida Legislature could amend the Charlotte's Web law to intertwine it with Amendment 2, thus rendering the above-explained debate of the current Charlotte's Web proposed rules moot.

As always, stay tuned – we will be sure to keep an ear to the ground for you.

*\*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 articles on the topic, which can be found at <http://www.ioppololawgroup.com/insider-updates/>.*

**Adrian Lukis, Esq.**  
**Government Affairs Manager**

*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.*

For additional information, please contact:

Adrian Lukis, Esq.  
Manager, Government Affairs  
[alukis@ioppololawgroup.com](mailto:alukis@ioppololawgroup.com)  
P: 407-936-3672; F: 866-529-4717

Ioppolo Law Group, PLLC  
250 International Pkwy, Ste 250  
Lake Mary, FL 32746  
P: 407-444-1004; F: 866-529-4717  
[www.ioppololawgroup.com](http://www.ioppololawgroup.com)

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