Post-Mortem on Amendment 2

Although Amendment 2 did not receive the requisite 60% voter support to become part of Florida's Constitution, the almost 58% bipartisan support that it did receive is significant. It is rare to have such a clear indication of electorate support on a particular issue. The question now will be how the support is reflected in future legislative sessions and elections.

Section 381.986, Florida Statutes, commonly referred to as the "Charlotte's Web" law, was signed into law by Governor Scott after the last legislative session. The law legalizes (for qualified patients) the medical use of "low-THC cannabis," which is defined in the statute as cannabis containing 0.8 percent or less of tetrahydrocannabinol, or "THC," and more than 10 percent of cannabidiol, or "CBD." THC is the ingredient in marijuana that makes users feel "high," and CBD has been found to be an effective remedy for those suffering from (primarily) seizure-inducing illnesses. The law received wide-spread support in the Florida Legislature because it was narrowly tailored to specific patients and was under the Legislature's full control.

Proponents of Amendment 2 were, of course, supportive of Charlotte's Web, but contended that Charlotte's Web doesn't go far enough; they believe more strains of marijuana need to be legalized to assist with different types of illnesses. However, unlike Charlotte's Web, Amendment 2 was not tailored to specific patients and was largely outside of the Legislature's control; Amendment 2 would have legalized all strains of marijuana for patients suffering from debilitating diseases *as determined by a licensed physician*. Although the Legislature could have passed some regulation, it could not, by law, pass anything inconsistent with the language of the Amendment. This lack of complete legislative control turned-off potential supporters and a slew of influential legislators and organizations and seemed to turn the tide just enough to let the Amendment fail. So, what do proponents do next?

Now that it is clear medical marijuana has broad support, Florida legislators will likely be more inclined to consider broadening the scope of § 381.986 to assist with particular and narrowly defined illnesses. With the right approach, § 381.986 could be expanded to allow for the growth of medical cannabis with varying levels of THC and CBD to be administered specifically for illnesses X, Y, and Z. The question will be whether proponents expend the resources to go about the issue legislatively or to take another shot at a constitutional amendment (or both, or neither).

One thing is for sure: It is the beginning of the medical marijuana story in Florida. 23 states and the District of Columbia have now legalized the medical use of cannabis and 4 have legalized its recreational use, including last Tuesday's additions of Oregon and Alaska. Washington D.C. also just legalized its possession. With state-wide support and substantial national movement, look for significant development (if not out right legalization) of medical marijuana laws in Florida in the future.

***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/.*

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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 for a consultation. Also, please feel free to visit our website at www.ioppololawgroup.com to explore our medical marijuana resource page and to sign up to receive our alerts.

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