

Cannabusiness

What are our options?
Planning for potential legalization of medical marijuana in Florida

Presenters

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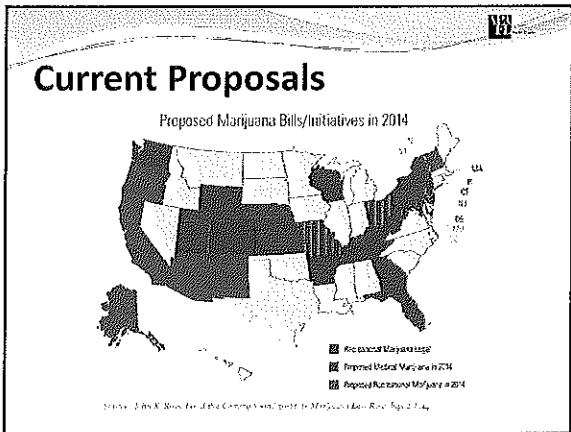
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State of the Union

State	Year Passed
1. Alaska	1998
2. Arizona	2010
7. California	1996
4. Colorado	2000
5. Connecticut	2012
8. DC	2010
7. Delaware	2013
6. Hawaii	2000
3. Illinois	2013
10. Maine	1999
11. Maryland	2014
12. Massachusetts	2012
13. Michigan	2009
14. Minnesota	2014
15. Montana	2004
16. Nevada	2000
17. New Hampshire	2013
18. New Jersey	2010
19. New Mexico	2007
20. New York	2014
21. Oregon	1998
22. Rhode Island	2008
23. Vermont	2004
24. Washington	1998



By the Numbers

- ⦿ **\$1.53 billion:** Amount the national legal marijuana market is worth (ArcView Market Research, 2013).
- ⦿ **\$10.2 billion:** Estimated amount the national legal marijuana market will be worth in five years (ArcView Market Research, 2013).
- ⦿ **\$17.4 billion:** Estimated total amount that marijuana prohibition costs state and federal governments every year (Miron, 2010).

What do we Know?

- Not a fad
- Opinions are plentiful
- Causation or correlation is undetermined
- Preparation is important
- Those who regulate early and strictly, suffer the least

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Constitutional Amendment

TITLE
Use of Marijuana for Certain Medical Conditions

SUMMARY
Allows the medical use of marijuana for individuals with debilitating diseases as determined by a licensed Florida physician. Allows caregivers to assist patients' medical use of marijuana. The Department of Health shall register and regulate centers that produce and distribute marijuana for medical purposes and shall issue identification cards to patients and caregivers. Applies only to Florida law. Does not authorize violations of federal law or any non-medical use, possession or production of marijuana.

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Constitutional Amendment

How will it work?

- Patient required to obtain a physician certification from a physician licensed in the State of Florida
- Certifying physician must:
 - conduct a physical exam of the patient
 - complete a full assessment of the patient's medical history
 - determine that the person has a "Debilitating Medical Condition;" and
 - find that the "potential benefits of the medical use of marijuana would likely outweigh the health risks for the patient"

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Constitutional Amendment

"Debilitating Medical Condition"

Cancer, glaucoma, positive HIV, AIDS, hepatitis C, amyotrophic lateral sclerosis (ALS), Crohn's disease, Parkinson's disease, multiple sclerosis or other conditions for which a physician believes that the medical use of marijuana would likely outweigh the potential health risks for a patient."

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Approved Legislation (§ 381.986)

- SB 1030 (codified in § 381.986 Florida Statutes)
 - AKA "Compassionate Medical Cannabis Act of 2014"
 - AKA "Charlotte's Web"
 - AKA "Low THC Cannabis"
- No smoking
- Limited qualifying illnesses - Cancer or a physical medical condition that chronically produces symptoms of seizures or severe and persistent muscle spasms
- Patient must be a permanent resident of Florida

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Approved Legislation (§ 381.986)

- Up to 5 dispensing organizations
- A dispensing organization must:
 - Be responsible for all stages - cultivation to dispensing
 - Be a registered grow facility licensed for the cultivation of more than 400,000 plants
 - Must be operated by a state licensed nurseryman
 - Have been operated as a registered nursery in Florida for at least 30 continuous years.
- Current list from the Department of Agriculture - 39 eligible nurseries

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Approved Legislation (§ 381.986)

- Implemented by the Department of Health who must:
 - develop rules - currently in and draft
 - develop a compassionate use registry for the registry of physicians and patients
 - authorize and regulate the dispensing organizations
 - administer the program under the Deputy State Health Officer.
- The Bill also encourages state university participation in Federal Drug Administration-approved research programs, and creates a grant program for eligible university research programs.
- Rulemaking must be complete, and implementation must begin by January 1, 2015.

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Approved Legislation (§ 381.986)

SB 1700 – Public Records Exemption

- Provides a public records exception to protect the release of documents related to the use of medical marijuana
- Recent case law indicates that the provisions are not likely to protect against disclosure to Federal agencies, such as the Drug Enforcement Agency
 - U.S. v. Michigan Dept. of Comm. Health, WI, 2412602 (W.D. Mich.) unreported

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Amendment v. Legislation

Existing State Law:

- Provides a much narrower framework for growing, selling, and using
- Limits the type of marijuana that can be grown and who may grow it
- Prohibits smoking as a method of consumption
- Integrates the use into research studies
- Greatly limits the qualifying conditions for use of the marijuana

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Interaction with Federal Law

- The Federal Controlled Substances Act (CSA) prohibits the production, distribution and use of marijuana, for medical or recreational purposes
- CSA and Federal Government still have regulatory and enforcement standing throughout the Country – regardless of State regulations allowing the use of marijuana
- All organizations and states point out that everyone who uses, produces, or distributes marijuana – whether for medical or recreational use – is subject to federal law

Can We Say "NO"?

- Most states specifically allow local governments the ability to regulate and prohibit
- Florida's Constitutional Amendment is silent
- Florida Statutes are silent
- The *current* proposed rules from the Department of Health, require an applicant for a license to comply with "all local and state building codes, fire codes, electric codes and other laws."

Can We Say "NO"?

- The general rule in Florida:
 - When state law is silent, municipalities can regulate in any manner not inconsistent with state law
 - Municipalities cannot do anything that is inconsistent with federal law
- Federal Supremacy supports local government conformance to Federal Law (Controlled Substances Act)
- Reliance on Federal Supremacy isn't a guarantee
 - *Ter Beek v. City of Wyoming (Mich.)*

Potential Local Impacts

- Increase in marijuana use among youth and young adults.
- Increase in marijuana-impaired driving fatalities.
- Rise in number of marijuana-addicted users in treatment
- Diversion of marijuana for unintended purposes
- Will the use cause a blighting influence?



Concerns & Conditions

- Are current notification standards in code sufficient?
 - 300 feet to 1,000 feet
- Do you have any area in your community that you would consider for cultivation?
 - Agricultural, industrial or vacant big box commercial properties?



Concerns & Conditions

- Separation Standards
 - Separation of prescription services
 - No on-site prescriptions
- Special Uses
 - Parks, elementary or secondary schools, child daycare centers or churches
 - Residential properties
 - Gateway Corridors/Major Roadways
 - 500 - 1,500 feet
- Other dispensaries
 - 500-2,000 feet



Zoning/Conditional Uses

- Adult Activity
 - No persons under the age of 18 shall be permitted in the dispensary at any time.
- Security
 - Record keeping, proper identification for patients, storage of marijuana on the site, on-site cultivation, delivery and maximum amount dispensed in any single transaction;
 - Require alarm system and/or panic buttons to be installed in the interior of the building.
 - A security guard shall be on the premises at all times the dispensary is open for business.
 - Loitering
 - Only qualifying individuals, employees of the business, or other qualified individuals, including City and state staff members shall be permitted inside the proposed business
 - Right of entry

Zoning/Conditional Uses

- Other Issues
 - Home Occupations
 - No retail sales of any products other than medical marijuana are permitted at the dispensary.
 - No consumption of alcohol or medical marijuana on site
 - Additional Sign Standards
 - No personal advertising
 - Regulate signage – Size?
 - Regulate/specify building color



Questions?



