



**Kate Bradshaw**

Director of Government Affairs  
801.799.5711  
Salt Lake City  
kabradshaw@hollandhart.com

## 2016 Utah Legislative Session - February 9

### Insight — February 9, 2016

The big topic at the State Capitol this week was medical marijuana. Although plenty of other issues were scheduled for committee hearings or floor debate, everyone's focus seemed to be on what would happen with the two competing medical marijuana bills. Utah currently has in place a very narrow medical marijuana law that allows for CBD oil to be used for people suffering from uncontrollable seizures after all other medical options have been exhausted.

For those of you not familiar with the medical marijuana debate, a very simplified breakdown of the two most discussed components in the marijuana plant are tetrahydrocannabinol (THC) and Cannabidiol (CBD). THC is the main psychoactive part of the plant that give a "high;" CBD does not produce a high, and the limited research available has indicated it has anticonvulsant, anti-inflammatory, and antiemetic properties. There isn't much research on medical marijuana because it is classified federally as a Schedule I Controlled Substance, which means by federal definition it has high potential for abuse and is of no acceptable medicinal use. This has limited any federal research funds since the 1970s. Since doctors and pharmacies/pharmacists have DEA licenses issued by a federal agency, those states that allow medical marijuana have to create "recommending" and dispensing laws that exist outside of the normal prescribing and dispensing system we are used to using for all other drugs.

In 2014, Sen. Mark Madsen (R-Saratoga Springs) surprised nearly everyone with the late introduction of a California-modeled medical marijuana bill. It passed a Senate committee and came within one vote of passing the State Senate, which was shocking for such a conservative state. Legislative leadership directed that the issue be studied over the interim and an unprecedented three consecutive Health & Human Services Interim Committee meetings were dedicated solely to this topic. The testimony given was wide ranging from medical professionals, law enforcement, and people suffering with severe medical conditions. Out of those hearings emerged two competing bills: A refined, round-2 version by Sen. Madsen; and a much narrower option proposed by Sen. Evan Vickers (R-Cedar City) and Rep. Brad Daw (R-Orem). Sen. Vickers is a pharmacist by profession and viewed as the legislative guru on all drug-related issues. The Vickers-Daw proposal ultimately won the backing of the interim committee, but that didn't stop Sen. Madsen from drafting his bill as well. I'll list the main components of each bill below, but for a fun legislative read you can access the full bill.

With a bit of legislative drama, Sen. Madsen demanded his bill be sent to the Senate Judiciary, Law Enforcement & Criminal Justice committee (of

which he is the chairman) for a hearing, claiming he wouldn't get a fair hearing in the Senate Health & Human Services Committee chaired by Sen. Vickers. Sen. Madsen's SB 73 passed the committee with a vote of 4-1-2, while on the same day, Sen. Vickers' SB 89 was heard in the Senate Health & Human Services hearing and passed with a vote of 6-0-0. This sets up a battle on the floor of the Senate where both bills will be debated. However, Sen. Vickers SB 89 was heard in a committee hearing that took place earlier in the day than Sen. Madsen's SB 73, which means that SB 89 is higher on the reading calendar and will receive a floor debate nine bills ahead of SB 73. In addition, the LDS church released a statement on Friday afternoon announcing its opposition to Sen. Madsen's SB 73 and neutrality on Sen. Vickers SB 89. The LDS church doesn't often weigh in publicly on bills, so this is sure to add intrigue to an already emotionally charged issue. Stay tuned for an update on the floor battle that will likely decide which bill advances to the State House.

You can check here for other introduced bills that might be of interest to firm clients. Feel free to reach out to me if there are bills or issues I can assist on for firm clients.

#### SB 73 Medical Cannabis Amendments by Sen. Madsen

- Would allow access to the whole marijuana plant in a variety of forms (both THC and CBD)
- Qualifying illnesses: acquired or autoimmune deficiency syndromes, Alzheimer's, amyotrophic lateral sclerosis, cancer, Crohn's disease, epilepsy, multiple sclerosis, PTSD related to military service, and chronic pain.
- Would allow for creation of a "Compassionate Use Board" to hear appeals from those that don't have a qualifying illness
- Creates a license and regulatory scheme for growers, producers, and dispensers
- Training and limitations for recommending physicians
- Would require a doctor's recommendations for a patient to receive a medical marijuana card valid for up to two years
- Would permit medical marijuana production facilities in any commercial or industrial zoned area (prohibition on local zoning to further limit locations).

#### SB 89 Medical Cannabidiol Amendments by Sen. Evan Vickers

- Would limit access to CBD oil only and in limited forms (tablet, capsule, concentrated oil, trans-dermal preparation or sub-lingual preparation)
- Qualifying illnesses: Epilepsy, nausea and vomiting during chemo therapy, for appetite stimulation caused by AIDS or HIV, muscle spasticity/movement disorder, and neuropathic pain conditions
- Creates a license and regulatory scheme for growers, producers, and dispensers
- Training and limitations for recommending physicians

- Would require a doctor's recommendations for a patient to receive a CBD oil medical marijuana card valid for up to two years.
- Would authorize the University of Utah and Utah State University to conduct medical research on CBD oil and have patient studies
- Would require dispensaries to submit information to the Controlled Substances Database (similar to reporting requirement by pharmacies)
- Would allow political subdivisions to adopt more restrictive zoning requirements if desired than are outlined in the bill.

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