New Medical Marihuana Regulations Send the MMPR Up in Smoke

August 15, 2016

On August 11, 2016, Health Canada announced the *Access to Cannabis for Medical Purposes Regulations* (ACMPR), replacing the *Marihuana for Medical Purposes Regulations* (MMPR) as the regulations governing Canada's medical cannabis program. The new regulations will come into force August 24, 2016 and seek to address the issues raised by the Federal Court in *Allard v. Canada* (2016 FC 236) by allowing for reasonable access to cannabis for medical purposes for Canadians who have been authorized for such use by their health care practitioner.

Why Replace the MMPR?

The Federal government introduced the MMPR in April 2014 with the stated goal of creating a regulated, commercial, medical marihuana industry. Through the enactment of the MMPR, the Federal government sought to repeal all existing Authorizations to Possess, Personal-Use Production Licenses and Designated-Person Production Licenses and instead require that all medical marihuana users purchase their marihuana from authorized, large-scale producers.

The Federal Court ruled the MMPR unconstitutional in *Allard* and gave the Federal government six months to redraft regulations governing Canada's medical cannabis program. The decision centred on the fact that under the MMPR scheme, the quantity, strain or quality of marihuana could not be guaranteed at an acceptable price compared to the personal production options that were being repealed by the MMPR. As a result, some individuals could lose access to their medical marihuana supply or be forced to break the law by continuing to produce their own. The Court found this to be an infringement of medical marihuana users' section 7 *Charter* rights and a violation of our principles of fundamental justice.

What Has Changed Under the ACMPR?

Under the ACMPR, Canadians who have been authorized by their health care practitioner to access cannabis for medical purposes will be able to produce a limited amount of cannabis for their own medical purposes, or designate someone to produce it for them. Persons wishing to do so will need to register with Health Canada in addition

to receiving authorization from their health care practitioner. Further details regarding this process will be released August 24, 2016. They will also be able to continue purchasing cannabis from one of the producers licensed by Health Canada.

How Will the ACMPR Affect Licensed Producers?

The 34 licensed producers across Canada are expected to continue to be the main source of cannabis for medical purposes. The licensed producers will now also be the only legal source of starting materials (seeds or plants) and interim supply to individuals who are registered with Health Canada to produce, or designate someone to produce for them, a limited amount of cannabis for their own purposes.

Do the New Regulations Allow for Storefront Operations?

No, storefront operations selling marihuana — commonly known as "dispensaries" and "compassion clubs" — are not authorized to sell cannabis for medical or any other purpose. These operations that sell, supply or distribute marihuana remain illegal and subject to law enforcement action.

What Does the Future Hold?

These regulations are meant only to provide an immediate solution to the issues raised by the Court in *Allard* and should not be interpreted as the long-term strategy for the regulation of access to medical marihuana. The Government is continuing to review and develop their long-term strategy with respect to medical marihuana and, as a result, many questions relating to the industry remain.

Participants in the medical marihuana industry—or those that may be interested in becoming participants in the industry — should continue to pay close attention to how these regulations are implemented and interpreted moving forward.

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