NO FUNDING FOR SESSIONS IN THE WAR AGAINST MEDICAL MARIJUANA

May 3, 2017

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For months there has been speculation whether Attorney General Jeff Sessions would enforce federal law against states that have legalized the distribution and use of medical marijuana. Sessions most recently warned that, "…it does remain a violation of federal law to distribute marijuana throughout any place in the United States, whether a state legalizes it or not."

As Congress wrestles with the country's budget (currently extended through September) one thing has become clear – there may be less intervention from the federal government because Congress has allocated $0 to the Department of Justice to crackdown on states in which medical marijuana is now legal.

The amendment to the 1,600 page spending bill, known as the Rohrabacher-Farr amendment (first passed in 2014 and required to be passed annually "allows states to carry on with crafting their own medical marijuana policies without fear of federal intervention") states:

> None of the funds made available in this Act to the Department of Justice may be used, with respect to any of the States of Alabama, Alaska, Arkansas, Arizona, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Illinois, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming, or with respect to the District of Columbia, Guam, or Puerto Rico, to prevent any of them from implementing their own laws that authorize the use, distribution, possession, or cultivation of medical marijuana.

While some view this as an admission that the war on drugs has failed and Congress believes money is better spent elsewhere, the next question will be whether Sessions decides to target states in which both recreational and medical marijuana are now legal, with an emphasis on the recreational aspect. It may be too early to speculate, but many of the states' "recreational laws" are so inextricably entwined with the medical aspects of the law that it may be difficult if not near impossible to differentiate and selectively target only one aspect. This is yet another shot at the war on marijuana and medical marijuana as just a few weeks ago, Florida Congressmen Matt Gaetz (R) and Darren Soto (D) introduced legislation in the U.S. House of Representatives to reclassify marijuana to a Schedule III drug. Schedule III drugs are defined as, "Drugs with accepted medical use," and include anabolic steroids, Vicodin, ketamine and Tylenol with codeine. Reclassifying marijuana could result in the lifting of restrictions and heightened scrutiny financial institutions currently encounter when banking a medical marijuana or other marijuana related business.

In then end though, marijuana is still a Schedule I drug ("Drugs with no currently accepted medical use," and determined to present the highest potential for abuse; and include heroin, LSD, peyote and ecstasy, along with marijuana) under the Controlled Substances Act and enforcement is under the jurisdiction of the Drug

Enforcement Agency, which for all intents and purposes, may not be acting against theses “medical marijuana states” because Congress has cut the purse strings…for now.

For more information on this topic, please contact the author, Colin Roopnarine, on the firm’s Government and Regulatory team.

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