

Cannabis Client Alert – Week of March 25, 2024

DENTONS

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In this week's edition:

- **Federal Officials Speak to Cannabis Rescheduling**
- **Senators Signal Momentum for Cannabis Banking Reform**
- **South Dakota and Wyoming Enact Legislation Banning Delta-8 Products**
- **Sixty Countries Call for International Drug Reform**
- **First Citizens Bank Plans to Service Cannabis Industry**
- **Bipartisan Majority of Americans Support Psilocybin Use in Therapy**

Federal

Federal Officials Speak to Cannabis Rescheduling – **President Biden** made statements during recent speeches (including a rare mention during the State of the Union) and on social media in March that he is “taking care” of cannabis reform. **Vice President Kamala Harris** called on the U.S. Drug Enforcement Administration (DEA) to act “as quickly as possible” on cannabis’s scheduling review during a closed-door roundtable discussion on criminal justice reform that took place on March 15, stating that cannabis’s classification is “absurd and patently unfair.” Sen. John Cornyn (R-TX) pressed Health and Human Services (HHS) **Secretary Xavier Becerra** on the parameters of the scientific review undertaken by the Food and Drug Administration during a Senate Committee hearing, suggesting that the analysis was not adequately comprehensive and deviated from the processes undertaken previously. Becerra replied that “[t]here has been a lot of science that’s been collected over the years on cannabis” and “we have far more information now,” citing the 252-page analysis that HHS provided DEA to support its rescheduling recommendation. Meanwhile, the Wall Street Journal reported that some **DEA officials** are “dubious” about the recommendation that cannabis be moved from Schedule I to Schedule III under the Controlled Substances Act. Additionally, former U.S. Attorney General William Barr and former director of the Office of National Drug Control Policy John Walters co-authored **an op-ed** expressing concerns about cannabis legalization, saying that “a doped-up country is a nation in decline.”

Senators Signal Momentum for Cannabis Banking Reform – Senate Majority Leader Chuck Schumer (D-NY) told reporters that a bipartisan cannabis banking bill remains a “very high priority” for the Senate. Sen. Jeff Merkley (D-OR), sponsor of the Secure and Fair Enforcement Regulation (SAFER) Banking Act, also told reporters that the bill is “gaining momentum” as lawmakers work to bring it to the Senate floor and pass it “this year.”

Federal Agencies and Lawmakers Push for an Increase in Cannabis and Psychedelics Research – The National Institute on Drug Abuse (NIDA) published an overview of various initiatives that would be expanded in the coming year under President Biden’s new budget plan. On psychedelics, the agency said that it is tracking “changing attitudes,” and supporting research to “better understand the effects of psychedelic drugs, their potential for treating [substance use disorder], and the impact of shifting policies in this area.” NIDA additionally touted the recent creation of a “cannabis registry” that it says will “capture data on cannabis product use and health outcomes, and conduct testing on products associated with adverse outcomes.” Meanwhile, two bipartisan members of Congress sent a **letter** to the heads of the HHS and DEA stating that they are “deeply troubled” with the “unacceptable” lack of progress in implementing a law signed by President Biden that was meant to streamline cannabis research.

State

FL – With the Florida Supreme Court weighing whether to allow an **adult use cannabis legalization measure** on November’s ballot, Gov. Ron DeSantis (R) reiterated his stance against the policy change, which is based in part on his position that letting adults legally consume cannabis could impact businesses and communities due to odor concerns. Despite his opposition to the initiative, the governor has **predicted** that the state’s highest court will ultimately allow the measure to appear on the ballot for voter consideration.

HI – Lawmakers in various committees of Hawaii’s House of Representatives advanced a Senate-passed bill to legalize and regulate adult-use cannabis. **SB 3335** would allow adults 21 and older to possess up to an ounce of cannabis and up to five grams of cannabis concentrates and would establish a framework for licensed, regulated sales. The Consumer Protection and Commerce Committee added an amendment requiring cannabis businesses to maintain labor peace agreements with bona fide labor unions.

IL – Officials in Illinois voted to add female orgasmic disorder as a new qualifying condition for medical cannabis certifications. In order to be formally enacted, the Illinois Medical Cannabis Advisory Board’s new recommendation will need the approval of the state’s Department of Health. Known as FOD, the condition is also currently being weighed as a possible patient qualification for medical cannabis in other states, including Ohio, New Mexico and Connecticut.

LA – At least nine bills have been pre-filed for the 2024 Regular Legislative Session that could change the way Louisiana deals with cannabis, from legalizing cultivation for personal use to making adjustments to the state’s medical cannabis program.

MA – Gov. Maura T. Healey (D) announced her executive action to pardon misdemeanor cannabis possession convictions in Massachusetts in what she described as the broadest action taken by a governor to forgive past cannabis crimes since President Joe Biden issued federal pardons. Healey’s proposal requires approval by the state Governor’s Council, which is comprised of Democrats and has supported Healey’s past requests for clemency for certain individuals.

MD – The U.S. District Court for the District of Maryland ruled that the dormant commerce clause does not apply to Maryland’s social equity cannabis license program. Because the Court found that the plaintiff’s claim was not likely to succeed on the merits, the preliminary injunctions were denied. The Maryland Cannabis Administration will now be able to continue processing applications and issuing social equity licenses.

MT – The Montana Supreme Court denied the State of Montana’s request to stay a lower court decision ordering the governor and secretary of state to send out an override poll for a cannabis fund redistribution bill that Gov. Greg Gianforte (R) vetoed at the end of the 2023 legislative session. The bill, which had substantial bipartisan support, sought to funnel more funds from cannabis tax revenues toward habitat conservation and county infrastructure.

MO – The Missouri Supreme Court heard arguments this month in a case cannabis regulators say could force them to

issue “dozens” of new licenses to grow, sell and distribute cannabis products above the state’s self-imposed caps, including to applicants that might not have received the necessary scores for their applications back in 2019.

NC – Although medical cannabis legalization has been a priority of North Carolina Senate Republicans, the state’s House Speaker said he was unsure whether there was enough support among House Republicans to move forward with a bill.

NE – Nebraskans for Medical Marijuana has made significant progress in collecting signatures for two ballot initiatives relating to medical cannabis legalization. To date, it has collected more than 85% of the required 87,000 signatures.

NJ – A state court ruled that towns in New Jersey have the right to regulate cannabis retailers by determining location and density requirements. In doing so, the court upheld a township’s rejection of a cannabis retailer due to a township ordinance limiting cannabis retailer locations.

TX – Nico Richardson, the CEO from Texas’s largest medical cannabis dispensary, has called for the state to regulate the sale of hemp-derived products, including delta-8 THC, due to public health concerns. According to Richardson, “[i]t is past time for our governor and state Legislature to work together to create a safe and effective regulatory framework for hemp products.”

VA – The editorial board of the Virginian-Pilot issued an op-ed encouraging Gov. Glenn Youngkin (R) to sign legislation that would create a retail cannabis market. Such legislation, the op-ed claims, “would bring needed clarity to state law regarding cannabis, allow adults to purchase the drug legally and potentially generate hundreds of millions in revenue.”

Hemp

State Attorneys General Pressure Congress To Take Action Against Intoxicating Hemp Products – Led by Indiana Attorney General Todd Rokita (R) and Arkansas Attorney General Tim Griffin (R), attorneys general from 20 states and Washington, D.C., sent a letter to congressional leaders urging congress to address the “glaring vagueness created in the 2018 Farm Bill that has led to the proliferation of intoxicating hemp products across the nation.” According to the letter, lawmakers should amend the definition of hemp and clarify that states can take their own measures to regulate hemp and its derivative products.

Delta-8 THC Popular Among Teens – According to findings published in the Journal of the American Medical Association, over 11% of high school students used delta-8 THC in the past year. Of those who used delta-8 THC, almost 91% also reported cannabis use in the past 12 months. Reflecting trends in the overall use of hemp-derived intoxicating products, researchers confirmed that the use of delta-8 THC was lower in states with adult-use cannabis legalization. Rep. Mike Flood (R-NE) **said** these findings “underscore the urgency” for state attorney generals to take action in restricting hemp-derived intoxicating products.

AZ – Arizona’s Senate approved legislation that would explicitly permit and regulate hemp-derived intoxicating products. If passed, the licensing and regulation of such products would be overseen by Arizona’s Department of Agriculture, rather than the Arizona Department of Health Services (which oversees the state’s cannabis program). The passage of this legislation comes just days after the state’s Attorney General **issued** a formal legal **opinion** concluding that hemp-derived intoxicating products can only be sold by licensed cannabis retailers.

MN – Minnesota’s Office of Cannabis Management issued an enforcement notice warning cannabis retailers about selling full-strength cannabis flower under the guise of being hemp. Under the state’s law, hemp is legal only within the specified THC limits. Inspectors from the Minnesota Department of Health will begin examining flower products being sold to ensure such products are hemp and not cannabis.

SD – Last week, South Dakota Gov. Kristi Noem (R) signed a bill (**HS 1125**) banning the “the sale or distribution of chemically modified or converted industrial hemp.” The bill takes effect July 1, 2024 and effectively makes illegal the sale of popular products that contain delta-8 and delta-10 THC in the state’s hemp market.

WY – A bill (**SF 32**) that effectively ends the market for hemp products containing delta-8 and delta-10 THC was signed into law this month by Gov. Mark Gordon (R). The legislation prohibits the addition of any “synthetic substance,” such as delta-8 and delta-10 THC, into hemp or hemp products for sale in the state and becomes effective July 1, 2024.

International

Sixty Countries Call for International Drug Reform – A coalition of sixty countries issued a joint statement calling for the reform of the international drug control system at a United Nations drug summit. The joint statement cited violence, corruption, environmental devastation, and the undermining of health, development, and human rights as consequences of the United Nations’ punitive drug policy. At the same summit, the International Narcotics Control Board (INCB) once again **reiterated** that it considers the legalization of cannabis a violation of international treaties. The INCB did, however, note its approval of the evolution of Germany’s cannabis legalization plan.

Canada – Briefing materials, issued as part of the cannabis industry’s lobbying efforts to reduce the tax burden on cannabis producers, show that Canadian’s Finance Minister was warned last year about the financial distress in the cannabis production industry. The materials cite a number of factors leading to this distress, including unfair profits earned by some provincially owned wholesalers, unpaid excise taxes, and a lack of profits earned by cannabis companies. Despite these challenges, a new survey **shows** that more Canadians are buying cannabis from the legal market. Among those who used cannabis in the last 12 months, almost 72 percent exclusively purchased cannabis from legal sources, representing an increase from 2022 (61 percent) and 2021 (53 percent).

Japan – Per National Police Agency data, the number of cannabis offenders under 20 surged by 34 percent to 1,222 last year, reaching a record high. The increase in suspects was notably pronounced for those 16 years and older, remaining high until age 20 before declining. The National Police Agency attributed the rise to both increased accessibility to drugs and insufficient awareness of their harmful effects.

Business

Canopy Growth Corporation Announces Details on Proposal to Allow Conversion of Common Shares Into New Class of Exchangeable Shares – The company recently provided additional details with respect to the previously announced special resolution to be voted on by the shareholders of the company which would authorize an amendment to the company’s articles of incorporation in order to create and authorize the issuance of an unlimited number of a new class of non-voting and non-participating exchangeable shares. Canopy shareholders will be asked to consider and vote on the amendment proposal at a special meeting of Canopy shareholders on April 12, 2024 at 1:00PM ET.

Top Bank Entering Cannabis Industry – First Citizens Bank, with over \$200 billion in assets, plans to service the cannabis sector. In commentary posted on the bank’s website early January, First Citizens Bank stated its intention to expand its hemp/CBD platform into the cannabis space.

Celebrity Jimmy Kimmel To Produce Cannabis Reality TV Show – Titled “High Hopes,” the show will be broadcast on Hulu and will follow Belarus-born brothers Slava and Mishka as they oversee their Los Angeles cannabis business.

Medical

Potential Positive Impacts From Free Cannabis Donations – A recent study published in *Harm Reduction Journal* explored the potential benefits of donating cannabis as a harm reduction strategy in the United States. Titled "Cannabis donation as a harm reduction strategy: a case study," the study examined a program located in Michigan allowing donations of up to 2.5 ounces of cannabis to individuals over 21, with data analyzed from September 2021 to May 2023. The study results suggested potential benefits, such as improved quality of life and reduced harm from the use of more dangerous substances.

Promising Effects of CBD on Menstrual-Related Symptoms – The potential impact of CBD on menstrual-related symptoms (MRS) was recently studied by researchers from Arkansas, Auburn and James Madison Universities, along with the Colorado-based CBD company Charlotte's Web. Their findings, as reported in the journal *Experimental and Clinical Psychopharmacology*, noted that oral doses of the cannabinoid were effective in alleviating symptoms such as irritability, anxiety, stress, and other measures when compared to participants' baseline measures.

Study Shows Variety of Cannabinoids Safe for Use in Dogs – A new study promoted by the National Animal Supplement Council (NASC) found that a variety of cannabinoids, including CBD, CBDA, and CBG, were "well-tolerated" in healthy dogs at certain doses. The study authors further concluded that, "[b]ased on the data available . . . the substances do not pose significant risk to dogs in long-term use."

Psychedelics

Strong Bipartisan Support For Psilocybin Use in Therapy – The overwhelming majority of Americans reportedly support the use of psychedelics in a controlled, licensed setting to treat psychiatric conditions. As published in a **study** by researchers from the universities of Johns Hopkins, Oxford, Yale and Grenada, 91 percent of liberals and 86 percent of conservatives reported favorable attitudes toward treatment uses of psilocybin.

KY – Earlier this month, Kentucky's new attorney general, Russell Coleman (R), urged the state's Opioid Abatement Advisory Commission to "step back" from allocating \$42 million to ibogaine research and clinical trials due to the drug's "unproven" efficacy and high expenses. The commission has been considering the use of the commonwealth's massive opioid lawsuit settlement to study ibogaine as a treatment for opioid addiction.

UT – Utah has enacted a new law (SB 266) that authorizes a pilot program for hospitals to administer psilocybin and MDMA as an alternative treatment option. The legislation reportedly provides for psychedelics' regulated access at privately owned, non-profit health care systems with at least 15 licensed hospitals or within medical programs operated by institutions of higher education.

VT – Vermont lawmakers have revised a proposed psychedelics bill (**S. 114**), moving away from the bill's original language legalizing possession and use of psilocybin. Instead, the amended bill now focuses on establishing a working group to study the potential therapeutic use of psychedelics, including substances other than psilocybin.

Dentons Speaks

On March 18, Dentons' Cannabis partner Joanne Caceres moderated a discussion with industry experts on "Cannabis Legislation in 2024 – What Needs to Happen and What Gaps Still Exist" during 1871 & Grown In's Cannabis Innovation Lab. Video from the event is viewable [here](#).

Arguing Ayahuasca Before the D.C. Circuit – Earlier this month, Dentons attorneys, Simon Steel, William

Boatwright and Kenneth Pfaehler, argued before the D.C. Circuit on behalf of the Iowaska Church of Healing, asserting that the church’s proposed use of ayahuasca should not have led to a denial of the church’s tax-exempt status.

Please [click here](#) for more information on the Dentons US Cannabis group.

Authored by associates [Malina Dumas](#), [Jacob Raver](#), and [Margo Wilkinson Smith](#).

Your Key Contacts



Eric P. Berlin
Partner, Chicago
D +1 312 876 2515
eric.berlin@dentons.com



Joanne Caceres
Partner, Chicago
D +1 312 876 2862
joanne.caceres@dentons.com