



ASA Petitions DC Circuit to Review Rescheduling Appeal *Suit argues DEA should reclassify cannabis as having medical use*

Americans for Safe Access (ASA) last month asked the federal court of appeals in Washington D.C. to reconsider its lawsuit over the federal classification of cannabis. ASA petitioned the United States Court of Appeals for the D.C. Circuit to have either the original three-judge panel or the full court review its suit that seeks to reclassify cannabis.

In January, the appeals court ruled in *ASA v. Drug Enforcement Administration* that the government did not act arbitrarily or capriciously in denying the most recent petition to reschedule cannabis. ASA appealed the DEA decision, arguing that the more than 200 peer-reviewed studies on medicinal cannabis show that there are accepted medical uses.

In denying the appeal, the court deferred to the DEA's definition of what counts as 'adequate and well-controlled' studies. The DEA



ASA's Joe Elford

concedes that the research cited in ASA's appeal suggests cannabis can be therapeutically beneficial for a variety of conditions, but says that no research to date meets the standard needed for new drug approval. Meeting that standard requires successful

completion of multiple Phase II and Phase III clinical trial—the type of double-blind placebo-controlled studies involving thousands of patients that are usually reserved for pharmaceutical companies trying to market a new drug.

"The effectiveness of cannabis in treating a host of serious medical conditions has been demonstrated repeatedly by careful scientific studies as well as centuries of doctor-patient

experience," said ASA Chief Counsel Joe Elford, who argued the appeal before the D.C. Circuit. "Even if there were a company interested in paying for them, the type of large-scale trials they're demanding are made impossible by the government's refusal to authorize such research or provide the cannabis necessary to conduct it."

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New Hampshire Medical Cannabis Bill Advances

After two previous attempts were vetoed, the Granite State appears to be on track to become the 19th to legalize medical cannabis.

Late last month, the New Hampshire House voted 286-64 to approve a bill that would permit qualifying patients to use medical cannabis when their doctors recommended it. The state Senate is now considering the bill. Passage is expected, as the Republican-controlled legislature approved similar legislation in both 2009 and 2012.

If enacted, the new law would establish state-licensed dispensaries and allow qualified patients or their designated caregivers to cultivate up to three plants.

The two previous bills were vetoed by then-Gov. John Lynch (D), who voiced concerns over potential for abuse. A spokesperson for New Hampshire's new governor, Maggie Hassan (D), has said the governor supports access to medical cannabis under tight restrictions.

Maryland Moves to Protect Caregivers, Add Distribution

Caregivers in Maryland may soon share the affirmative defense protection afforded qualified patients in the state. On April 1, the state House on a vote of 95-37 approved Senate Bill 580, which was passed unanimously in the Senate March 14. If signed by Gov. Martin O'Malley, caregivers in possession of an ounce or less of cannabis could have charges dismissed if they can present evidence they were assisting a qualified patient.

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Massachusetts Issues Draft Regulations

Safe access in Massachusetts is beginning to take shape. The state's Department of Public Health (DPH) last month issued draft regulations for implementing the state's medical cannabis program.

The draft regulations establish a framework for the program 63% of Massachusetts voters approved last November. The law allows qualifying patients to use and possess medical cannabis on the recommendation of their physician and establishes Medical Marijuana Treatment Centers (MMTCs) for obtaining it. Local governments would be barred from banning MMTCs in their community.

DPH will license MMTCs to cultivate, process, and sell medical cannabis. Qualified patients will be able to obtain up to 10 ounces in a 60-day period. A hardship provision allows patients to cultivate their own medicine if they are unable to access a MMTC due to distance, disability, or low income.

The regulations include input gathered from medical cannabis patients and other stakeholders at "listening sessions" DPH held. ASA, working in coalition with the Massachusetts Patient Advocacy Alliance and the ACLU, has raised concerns with DPH regarding limits to

patient access and barriers to doctor recommendations. The limits on patients include prohibiting them from obtaining cannabis from more than one MMTC and requiring patients under 18 to be certified by two physicians as having a debilitating, terminal medical condition. The draft regulations also require physicians to register with DPH and undergo training before being authorized to recommend cannabis to their patients.

DPH will present the regulations to the department's Public Health Council on April 10 and hold public hearings on April 19. The opportunity for written public comment closes on April 20. Final draft regulations will be presented to the PHC on May 8 and, if adopted, go into effect on May 24. By law, DPH has until May 1 to enact regulations, but some state lawmakers have proposed an extension. The proposed regulations call for the state to license at least 14 dispensaries the first year. Until then, qualified patients may cultivate a limited amount of cannabis for their own use.

The proposed rule against banning MMTCs follows a decision by the state Attorney General that such bans would be illegal. Four cities have sought to ban MMTCs, and at least one is appealing the AG's decision.

New York Considers Medical Cannabis Again

New York state legislators are again considering measures that would establish a medical cannabis program. The bipartisan seed-to-sale bills, Bill 6357 in the Assembly and Bill 4406 in the Senate, were introduced simultaneously late last month. If enacted, New York would have a regulated system of cultivation and dis-

tribution to qualified patients. The New York Assembly has passed similar bills in the past only to see them blocked by lawmakers in the Senate. The bills' supporters also face opposition from Gov. Andrew Cuomo (D), who has said in the past that he believes the dangers of abuse outweigh therapeutic benefits.

West Virginia Holds Hearing on Medical Cannabis

A bill that would establish a medical cannabis program in West Virginia got a hearing before the state's House Health and Human Resources Committee last month. If enacted, House Bill 2961, "The Compassionate Medical Marijuana Use Act of 2013," would allow qualifying patients to possess up to six ounces of marijuana and cultivate up to 12 plants. The state would license eleven dispensaries—five by the

end of the first year and another six by the end of the second. Introduced by Del. Mike Manypenny (D-Taylor), who offered a similar bill last year, the bipartisan measure has nine cosponsors. A January poll by Public Policy Polling found a majority of West Virginia voters support safe access by a 13-point margin, with 53% in favor and 40% opposed. West Virginia has the nation's highest disability rate.

Oregon House Committee to Hear Dispensary Bill

A bill introduced in the Oregon House last month would license and regulate medical cannabis dispensaries in the state. House Bill 3460 would require the estimated 150 dispensaries currently operating in the state to obtain a license from the Oregon Medical Marijuana Program similar to what is required of patients and caregivers under existing law. Medical

cannabis dispensaries would be required to test for pesticides, mold and mildew and comply with security guidelines. They would be prohibited from operating in residential areas or within 1000 feet of a school. The bill is currently before the House Health Care Committee, which has scheduled a public hearing on it for April 8.

Illinois Proposes 4-Year Pilot Program for Patients

Several attempts in previous legislative sessions came to naught, but proponents of a medical cannabis bill in Illinois say a new bill is close to passage. House Bill 1 would create a four-year pilot program for qualified patients through which they could obtain up to 2.5 ounces every 14 days. After four years, lawmakers could

make the program permanent or end it. Bill sponsor Rep. Lou Lang (D-Skokie), who touts his bill as the most restrictive medical cannabis law ever written, says the measure is just a few votes short of passage. HB 1 was approved by the House Human Services Committee last month.

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The petition to reclassify marijuana for medical use was filed in 2002 by the Coalition for Rescheduling Cannabis, of which ASA is part. That petition was denied by the DEA in July 2011 after ASA sued the government for unreasonably delaying the answer. The appeal to the D.C. Circuit was the first time in nearly 20 years that a federal court has reviewed the issue of whether adequate scientific evidence exists to reclassify marijuana. Before the January ruling, the D.C. Circuit had never granted plaintiffs the right to sue when seeking reclassification of marijuana.

ASA argues the DEA cannot "apply different criteria to marijuana than to other drugs, ignore critical scientific data, misrepresent social science research, or rely upon unsubstantiated assumptions, as the DEA has done in this case."

If the D.C. Circuit rejects ASA's request for rehearing or review, the case can be appealed to the U.S. Supreme Court.

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Currently, neither patients nor caregivers are protected from arrest, but patients charged with an ounce or less of cannabis can present evidence of medical need and get charges dismissed. Patients charged with cultivation or possession of more than one ounce can argue medical need to receive a reduced sentence.

There is no mechanism for legally obtaining any amount of medical cannabis in Maryland, but the Senate is now considering House Bill 1101, which would establish the framework for a highly restricted distribution system through academic medical centers. Whether any such hospitals would participate remains to be seen. The two most prominent candidates, Johns Hopkins Hospital and University of Maryland Hospital, have each said they will not, according to the state's Department of Legislative Services. The DLS analysis of the bill also concludes that the program cannot meet its requirement to be cost-neutral without setting prohibitively high fees.

The House of Delegates last month approved the HB 1101 over a competing bill, HB 302, that would have established a nonprofit dispensary network and allowed patient cultivation. Gov. O'Malley is likely to sign HB 1101 if passed by the Senate, as the state secretary of health and mental hygiene withdrew opposition to the measure in March and said the administration would support it.

ACTION ALERT: Lobby Your Congressional Rep

Contact your Representative today and explain why supporting the two bipartisan medical cannabis bills in the House is so important. HR 710, the Truth in Trials Act, would finally allow medical evidence in federal trials. HR 689, the States Medical Marijuana Patient Protection Act, would reschedule cannabis, end federal interference, and remove barriers to research.

We've made it easy for you to take action online. Send your Representative a message today by going to AmericansForSafeAccess.org/HouseBills.

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