



DELAWARE

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LEGISLATION

Will Delaware's medical marijuana law go up in smoke?

by William W. Bowser

Delaware legalized marijuana for medical use in May 2010. The law provides that Delaware residents with certain specific medical conditions can legally purchase marijuana at "compassion centers" throughout the state. While the law is now technically in effect, no compassion centers exist. That's because the Delaware Department of Health and Social Services (DHSS) has yet to issue the requisite regulations. The law requires the DHSS to issue the regulations by July 1, 2012.

Even when the regulations are issued, the future of medical marijuana in Delaware will remain hazy. Currently, marijuana is classified as a "schedule 1" controlled substance under federal law. That's the same category as heroin and LSD. According to the federal government, there is "no currently accepted medical use in treatment in the United States" for a schedule 1 drug.

According to a recent *New York Times* article, federal agencies have moved to block states' efforts to expand the use of medical marijuana. For example, in response to a bill passed by the Washington Legislature to legalize and regulate marijuana dispensaries and growers, the U.S. Justice Department warned that growing and distributing marijuana is still against federal law and stated that "state employees who conducted activities mandated by the Washington legislative proposals would not be immune from liability." The warning caused Washington Governor Christine Gregoire to veto the bill.

Similar actions froze Rhode Island's plans to allow state-regulated marijuana dispensaries. Federal prosecutors warned Rhode Island

Governor Lincoln Chafee that the dispensaries could be the target of prosecution. As Delaware moves forward with its plans to allow the use of medical marijuana, a similar federal response seems possible, if not likely. Whether those actions will stomp out Delaware's efforts remains to be seen.

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