The announcements with respect to the proposed new Access to Cannabis for Medical Purposes Regulations – ACMPR.

The Federal government announced today what they plan to do, at least on an interim basis to meet the August 24, 2016 deadline, with respect to the new medical marihuana regulations, the ACMPR (Access to Cannabis for Medical Purposes Regulations), but have yet to provide us with the actual regulations, and it is therefore difficult to be sure about the details of announcements until we see ultimate final format in regulations.

www.hc-sc.gc.ca/dhp-mps/marihuana/index-eng.php

Clearly this announcement takes place at a time when the same government is said that they are going to "legalize" access to cannabis and have appointed a Task Force to determine how to do it right. That Task Force mandate includes a consideration of the medical marihuana situation and they are expected to report in November. Legalization is supposed to start in the spring of 2017. Consequently, further changes can be expected.

It is therefore important for all medical patients to make their positions known to the Task Force to ensure that the particular requirements of medical patients are met and are not subsumed and lost as they had been in our neighboring Washington State USA.

Generally, the announcements appear to be a very good response to meet the minimum requirements of the Allard case allowing for the creation of regulations that will continue to enable patients and designated grower or caregivers to continue to produce for themselves or as I understand it, for up to 2 people, and there can be 4 production licenses at one site. The announcement indicates that a 1 g dosage equates to either 5 indoor plants or 2 outdoors or a partial in and out situation and that is similar to the prior formula under the MMAR, but it is not completely clear.

The Allard injunction that grandfathered some 28,000 patients under the MMAR continues until "further order of the court" and it's my understanding that the Federal government is not going to seek to have it discontinued until they are satisfied that all transitioning has taken place that is going to take place and it

may be that they will allow it to continue forever if the new regulations would prejudice the MMAR permit holders situation.

So generally, they appear to be good announcements, although the fact that it took them almost 6 months to the deadline to simply modify the MMPR to meet the minimum requirements of the Allard judgment with respect to patient and designated grower production and have left intact some of the restrictive aspects of the MMAR or the injunction, is a further indication that this is an interim measure, and there is more to come.

To answer the most often questioned asked – **can I move my license under the MMAR the answer remains that you cannot** as these announcements do not modify the injunction in any way and the Court has not acceeded to our multiple requests in that regard. It would appear that if you need to move your site from your MMAR site, you will need to apply under the new regulations ACMPR and have your sites registered under the ACMPR. Once the new regulations are in place, we will hopefully be able to see if that will result in any prejudice or limits to the MMAR license conditions. If not, then the change of address can occur that way without prejudice.

There are 7 areas of preliminary consideration that I have noted below, in no particular order of importance, as follows:

1. Requiring patients to obtain their starter seeds are clones from an LP is a nonstarter, unless the LP establishes a reputation of producing a particularly good strain. As when Health Canada insisted that patients had to obtain seeds from them I expect that most patients will buy the seeds from the LP, but then either put them in a drawer or throw them out and acquire high-quality seeds from the many seed distributors that now exist in the market. LPs selling seeds will have a booming business for a while, but it will remain to be seen if any of their seed products are accepted by the marketplace. You cannot expect the government to encourage you to buy seeds in the illicit market hence the direction that they must be acquired from the only legal source that currently exists, namely the LPs is perfectly understandable. MMAR producers are not authorized to sell seeds;

2. It is unclear how the dosage will translate into plant count and storage at the production site, etc., as well as what the patient can store at his or her residence – more information is needed here to see if this limits plant counts and interferes with reasonable access hopefully a person transitioning from the MMAR to the ACMPR will not be prejudiced in relation to their existing situations in that regard;

3. While Registered Producers and Designated Growers under the a ACMPR will be entitled to assist each other in production I continue to fail to understand how it is an offense to aid and abet or assist somebody who is doing something legal. Producers need to be able to have caretakers for when they go away or are on holidays or that sort of thing, and husbands should be able to help wives and vice versa. So this needs to be clarified. Presumably once legalization occurs this problem should disappear;

4. They have made no provision to enable patients and designated growers to test their products that I can see. While I think this is not important as some bearing in mind what we do with our other fruit and vegetables that are produced for ourselves, nevertheless, many would like to be able to do this and know what they are producing and specially designated producers supplying their patients. Hopefully the new regulations will enable them to test and again the development of legalization may remove this issue. I remain unaware of any patients who have suffered as a result of their home production for the production for them by designated drawer or from the attendance at the dispensary for that matter – where are the bodies?;

5. They have continued to impose the 150 g possession maximum on patients imposed in the Allard injunction that was not in the MMAR and which the Court declined to vary after trial. While this limit is fine if it applies to those with low dosage prescriptions when they are out and about from their production or residence it needs to be clarified that it does not apply to the amount they are entitled to store. Furthermore, allowance has to be made for the designated grower who has to get rid of his crop because he's starting another one and needs the storage space and normally ships to the

patient by mail. While the 150 g limit does not apply to the DG under the MMAR, the patient who picks it up at the post office would have to make potentially many trips if they can only transport 150 g at a time from the post office back to the residence. Similarly, there is no provision for people working out-of-town or otherwise traveling for longer periods and how they go about accessing the medicine in such circumstances. These types of limits are not placed upon prescribed drugs when people travel or get sent someplace to work far away from the sites. The basis for this limit was to avoid people being accosted on the streets and their marihuana stolen, but I have yet to hear of such a case, and think that scenario is far-fetched, particularly in the existing market where are the bodies?;

6. They have not addressed the deficiencies in the MMPR LP process that led to the patients "voting with their feet" and going to the dispensaries that in turn resulted in a huge increase in dispensaries in Vancouver and Toronto in particular. Patients have made it clear that the LP system was not providing them with “reasonable access” and the Court agreed but those deficiencies have not been addressed. The Allard case did not seek a declaration in this regard because those developments occurred after Allard was commenced and came out in the evidence at trial as evidence came in about the MMPR process deficiencies. None of the Plaintiffs were persons who were dependent upon a particular LP. They were all Plaintiffs who wish to produce for themselves and have a caregiver do so for them and the deficiencies in the LP MMPR system proved that they should be allowed to continue to produce for themselves, etc. in order to achieve “reasonable access” because the MMPR was not doing so.;

7. They have not addressed the Dispensary issue that Judge Phelan said was “at the heart of ‘reasonable access’ for patients”. No relief was sought in Allard in relation to dispensaries as no Plaintiffs were dependent upon a particular dispensary that had been closed, thereby denying them, “reasonable access”. The evidence demonstrated what was going on in the market and the Court simply recognized that most people don’t want to grow for themselves or have somebody grow for them. Nor do they wish to simply look at a webpage and make a mail-order. Patients want to be able to go into a dispensary/ pharmacy/retail store to obtain information and

access to varieties of medication. Expanding LPs to include craft growers and to enable all of them to market their product in independent dispensaries may yet occur as we towards legalization. If not, I would see medical patients who are dependent upon dispensaries and who are unable to get what they want or afford what they want from LPs might have an action based on denial of “reasonable access”. Remember it is the patients who are entitled to “reasonable access” not the Dispensaries who choose to try and be part of “reasonable access”.

Those are my preliminary initial thoughts on reading the government announcements and subject to seeing the actual new regulations on or before August 24, 2016.