The Medical Marijuana Business Matures

In the few places that allow storefront dispensaries, entrepreneurs are adopting nonprofit business models to cope with legal gray areas

By Karen E. Klein

The U.S. Justice Dept., at the direction of the Obama Administration, last month announced that it would no longer direct federal investigative resources to pursue criminal charges against medical marijuana clinics, providing they are operating lawfully. The policy represents a major shift in tactics from the Bush Administration, which had federal agents raiding medical marijuana distributors on the basis of violating federal statutes (federal law outlaws marijuana possession under the Controlled Substances Act)—even if the operators were in compliance with state laws.

Will the new Obama policy kick off an entrepreneurial bonanza in the 13 states (Alaska, California, Colorado, Hawaii, Maine, Michigan, Montana, Nevada, New Mexico, Oregon, Rhode Island, Vermont, and Washington) where medical cannabis is legal? Maybe, experts say, citing the proliferation of medical marijuana training centers in recent years and a plan by one California business to begin franchising the dispensaries. But while the potential for a large medical marijuana market exists, cannabis remains mired in legal ambiguities and political sensitivities that—while changing rapidly—are still difficult for entrepreneurs to navigate.

To start, most of the 13 states do not allow storefront dispensaries; they permit medical patients to grow their own marijuana or purchase it directly from a registered grower certified by the state. In the rare places that do allow dispensaries, they must be structured as nonprofit cooperatives rather than for-profit entities, with marijuana provided by state-certified patients or their caregivers.

NEIGHBORHOOD NUISANCE

In California, the first state to legalize medical marijuana sales and use in 1996, this nonprofit requirement came in mid-2008, when State Attorney General Jerry Brown issued guidelines for medical marijuana operations to try to rein in the hundreds—if not thousands—of for-profit dispensaries that had cropped up, many turning into neighborhood nuisances, with doctors on staff who would write prescriptions for anyone who walked through the doors. (California's guidelines stating they should be nonprofit aren't law; they're in an opinion issued by Brown.) Now the epicenter of the regulated medical marijuana movement is in Oakland, Calif., where four licensed cannabis dispensaries operate under strict city and state guidelines. This summer, the city's voters approved by 80% a special 1.8% sales tax on marijuana sales that will go directly into the city's general fund, says Steve DeAngelo, the founder of nonprofit dispensary Harborside Health Center. He and his attorney, James Anthony, devised the idea of the special tax while discussing the city's financial straits.

Harborside, which looks something like a tidy community bank, does $20 million in annual sales, has 30,000 registered patients in its collective, and 75 full-time employees, DeAngelo says. His product is tested for purity and potency at a laboratory he helped found, he says, adding that during the past year's recession his staff grew from 43 to 75, and says he pays each a living wage, provides them with health insurance and paid leave, and has recently added a pension program.

A lifelong cannabis activist and entrepreneur, DeAngelo has also come up with a new business idea. He recently founded for-profit Harborside Management Associates, a firm that currently does consulting for cannabis dispensaries and hopes to become America's first franchised medical marijuana operation.

COLLEGE COURSE

Also located in Oakland is Oaksterdam University, a nonaccredited private educational facility that teaches would-be dispensary owners to operate their own medical marijuana clinics. About 6,000 students have gone through its certificate program, which meets two hours a week for 13 weeks, says Greg Grimala, an Oaksterdam spokesperson.

While there is no requirement for dispensary operators to be certified, education and training may help entrepreneurs gain local approval for the facilities. "It's very, very important for people who want to open dispensaries to work with their local government," Grimala says. "It's the local government that's going to dictate whether they want to have this business in their neighborhood. If you open up in a city that does not want you there, they'll find a way to force you out."

Capital requirements for a new dispensary are $80,000 to $100,000 minimum, Grimala says. Richard Lee, who
founded Oaksterdam University, agrees. He operates the Coffee Shop Blue Sky in Oakland, a combination for-profit coffee shop and for-profit medical marijuana dispensary that he says brings in $3 million in annual revenue. (Oakland's local ordinance calls for no "excessive" profit, and Lee says so far the city has not deemed his dispensary to be making excessive profits.)

DeAngelo says he advises clients to plan on $250,000 in startup costs for larger operations like his own at Harborside. Along with purchasing marijuana plants and supplies, doing testing, staffing the facility, and providing adequate security, local jurisdictions often impose fees for licensing or conditional use permits, he says.

NO CASH COW
"If you think this is the newest way to make lots of money, I'd say get into another business," DeAngelo says. "Even if you're wildly successful and make a lot of money, you're going to have to give that back to the community" because of the nonprofit business model, which he supports for the future.
"This is an opportunity for social entrepreneurs, who are willing to help suffering people feel better and expand the zone of freedom in our country. The type of person who should get into this business will be looking for less tangible rewards," he says.

Bruce Mirken, communications director of the Marijuana Policy Project, a lobbying and educational organization that advocates legalizing, regulating, and taxing marijuana, says that even in the states with the most liberal laws, storefront dispensaries exist in something of a gray area. While federal enforcement conflicted with state law, many cities were reluctant to issue formal guidelines for dispensaries, leaving the operators in legal limbo, he says. "Things will continue to evolve, and my guess is that more states will be open in time, but that's anybody's guess," Mirken says.

Still, in the past several years, model dispensaries and industry best practices have begun to emerge. The Medical Cannabis Safety Council, in conjunction with other medical cannabis policy groups, is attempting to establish a self-regulatory model built on non-profit industries such as hospital emergency rooms, says Mickey Martin, a founding project adviser for the group and associate editor for West Coast Cannabis Magazine.

BALLOT INITIATIVE
DeAngelo says he is optimistic about his company's fortunes. "I believe the Obama Administration is being honest with us when they say we won't be raided by the federal government if we're in scrupulous compliance with state law and local regulations," he says. He and other activists are collecting signatures to place a marijuana legalization initiative on the California ballot next year.

Tax Cannabis 2010 would allow cities and counties throughout the state to tax and regulate marijuana for adult use. "We think it will bring our laws in line with reality," Grimala says. Even if that initiative is approved by voters—and it is certain to draw fierce opposition—DeAngelo says he will push for the industry to remain not-for-profit.
"The country should get it right this time. Let's take care of our cities and our schools and not give this one to the multinational corporations," he says. While he favors allowing adult recreational use, he says he is horrified by the idea of children being exposed to over-the-counter marijuana sales. "Do we want kids to walk into 7-Eleven past cigarettes and booze—and marijuana also? Do we want them to open up Rolling Stone and see a two-page glossy spread for reefers?"

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