



Building a healthy nation through research
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MEDICAL INNOVATION BILL

Part I – Legal considerations

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1. INTRODUCTION

- The SAMRC participation = response to a request from the PC to consider the contents of the Bill and share insights with Parliament.
- Subject matter = whether or not the legalisation of the use of Cannabis (or derivatives / components thereof) for the Medicinal purposes may be desirable.

2. WHY SHOULD THE OPINION OF THE SAMRC MATTER

- The SAMRC is a statutory body created by the South African Medical Research Council Act, (Act 58 of 1991) (“The SAMRC Act”)
- By virtue of section 3 and 4 of the SAMRC Act In essence, the SAMRC is a public custodian of medical and health research in South Africa, and therefore properly interested in the subject matter of the Bill.



THE BILL

DISCUSSION

- The Bill also seeks as its additional objective, the establishment of one or more research hospitals for medical innovation especially with regards to treatment and cure of Cancer through the use cannabinoids.

CLASSIFICATION OF CANNABINOIDS IN SOUTH AFRICA

- Refer to slide 9 of PART 2 Item 3
- Based on these claims and preclinical studies, it is our view that in order to allow a thorough consideration of the proposed the Bill, further focused and commissioned research is required to attain a degree of medical / health solution certainty especially as the contents of the Bill suggest that the medicinal use of cannabinoids can be used the cure Cancer
- The Bill defines “treatment” as follows:

*Shall include, without limitation, actions prescribed by a medical practitioner aimed at **curing**, managing, ameliorating or treating a condition or inaction.*

The Bill does not define **cure**, however, ordinary meaning of “cure” is said to be to relieve the symptoms of a disease or condition by treatment or remedial action.



PILOT HEALTH CENTRES

The National Health Act of 2003 provides a legislative framework for the establishment of a National Ethics Research Council (NERC) and objectives thereof.

Given the objects, powers functions and duties of the SAMRC and those of the Office of Health Standards Compliance (“OHSC”) or those of the NERC (both created und the National Health Act), it would be advisable for there to be a requirement for the Minister, in the identifications and authorization of the envisaged Pilot Health Centres, to consult with the SAMRC, NERC and the OHSC or for the SAMRC, NERC and the OHSC to have a supervisory role over the Pilot Health Centres.



GOOD GOVERNANCE

Section 11 of the National Health Act provides for measures to achieve / ensure good governance in health research centres.

REQUIREMENTS FOR GOOD GOVERNANCE; include

- Patient Informed Consent into NHA
- Adherence to PoPI Act
- Consumer Protection Act



POTENTIAL CONSTITUTIONAL CHALLENGES

“MEDICAL PRACTITIONER”

- There are other healthcare professions regulated under the Allied Health Professions Act and the Traditional Healers Act who use cannabinoid for healing purposes. They may challenge the Bill on the basis that it is an offence to section 9 (right to equality) to only authorise a medical practitioner as defined in the Bill, to the exclusion of other legally recognised health professions / practices. We recommend Constitutional pre-certification by the CSLA

CONSEQUENTIAL LEGISLATION AMENDMENTS

- **INTERNATIONAL CONVENTION**
United Nations International Treaty – Single Convention on Narcotic Drugs, 1961
- **OTHER SA LEGISLATION**
- The Drug and Drug Trafficking Act, 1992 (Act 140 of 1992)
- Medicines and Related Substances Controls Act, 1965 (Act 101 of 1965)
- The National Health Act