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"Room to Grow? Why There May Still Be Significant Upside for LPs in Advance of the Rec Market"



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On April 14, 2017, Canadian Prime Minister Justin Trudeau's government tabled legislation to legalize recreational marijuana. The government has committed to having the legislation passed by July 1, 2018. Although many Canadian investors have been closely monitoring publicly-traded Canadian Licensed Producers ("LPs") since the release of the Task Force Report back in November, 2016, the first reading of Canada's new *Cannabis Act* served as a major catalyst for increased investment in the cannabis industry.

A week before the legislation was tabled the Canadian media leaked that the tabling of legislation was imminent. As a result of this leak shares in Canopy Growth Corp., Canada's largest medical cannabis company, jumped nine per cent to \$10.84 on the Toronto Stock Exchange the day after the leak. Similarly, Aurora Cannabis Inc.'s shares jumped nine per cent to \$2.48 per share and OrganiGram Holdings Inc. to \$2.42 from \$2.16.

Some have said that the stock prices of publicly-traded LPs will not grow in any further significant fashion until the recreational market comes online in 2018. Analysts' valuations and existing share prices have already factored in the recreational market's future potential for earnings, or so the argument goes.

However, over the next 12 – 16 months there are still many variables that could see more volatility in the market and result in considerable growth of the LPs' share value. In particular, the explosion of new medical marijuana patients registered under the *Access to Cannabis for Medical Purposes Regulations* could have a significant positive impact on share prices.

The number of medical marijuana patients in Canada is already growing at a rapid clip. The most recent Health Canada figures show that at the end of 2016 there had been a 32 per cent jump from 98,000 to almost 130,000 registered patients in Canada who had signed up with the country's then-38 LPs as at December 31, 2016¹. At the time of writing, Canada now has 43 LPs, who are relying on this surge in demand in the market. There is no reason to think that this will slow down and indeed almost every major analyst predicts that the medical market will continue to grow.

¹Health Canada, Drugs and Health Products "Market Data" <http://www.hc-sc.gc.ca/dhp-mps/marihuana/info/market-marche-eng.php>

Additionally, some companies are incorporating cannabis into existing employee benefits plans which increases the possibility of potential patients who have held off on using cannabis as treatment for financial or other reasons to register with LPs. These benefits programs, coupled with a changing perception and public acceptance of medicinal cannabis, may aid in rapidly accelerating the number of registered patients in Canada.

Of note, Loblaw Companies Limited (“Loblaws”) and Shoppers Drug Mart (“Shoppers”) recently circulated an internal company memo to all of their employees indicating that the cost of medical cannabis will be covered up to a maximum of \$1,500 a year. These two retail giants employ approximately 45,000 employees, who will now have the option, if needed, to treat various medical conditions or ailments with the use of medicinal cannabis. While the number of conditions that are permitted to be treated by cannabis under the plan is limited, Loblaws and Shoppers have indicated that they are prepared to consider expanding the covered conditions as time goes on².

With industry leaders like Loblaws and Shoppers offering benefit plans such as these, we expect that many others will follow suit. The willingness of other companies to offer cannabis-related benefits may be driven either by growing social acceptance of the use of medicinal cannabis, to remain competitive in retaining and attracting new talent, or both. Regardless of the motivation, additional companies moving to cover the cost of medical cannabis is good news for LPs.

Benefit plans and mandatory coverage for medical cannabis is also being seen in the court and tribunal system. Recent judicial decisions are trending in the direction of making coverage mandatory, including a Nova Scotia Human Rights Board case where the Board concluded that a benefit plan’s refusal to cover medical cannabis for a disabled employee was a violation of the *Human Rights Act*. The Board directed the parties to attempt to negotiate an appropriate remedy, but as an interim remedy, required that the coverage for medical cannabis be covered up to and including the most recent prescription cost at the time of the hearing. Decisions like this are sure to be precedent-setting and we suspect will have an impact on employers’ planning and choices for benefits plans.

²Toronto Star, “Shoppers, Loblaw employees covered for medical marijuana”

<https://www.thestar.com/business/2017/03/30/shoppers-loblaw-employees-covered-for-medical-marijuana.html>

A partnership between LP, MedReleaf and administrator of group health benefits, Benefits by Design ("BBD") Inc. has resulted in a medical cannabis-only Health Care Spending Account ("HCSA"), signaling that employee benefits are on the radar of LPs. The HCSA is a "low-cost benefit solution that allows employers to respond to the needs of their staff, encourages use of regulated cannabis to treat conditions (as opposed to unregulated dispensaries), and generally enhance their existing plans to continue to attract and retain the best and brightest³."



Significant developments in the medical market could lead to an even faster growth of registered patients, which is already growing at an astonishing rate. Many companies and LPs are well-positioned to respond to heightened demand and increase capacity quickly given that they have been preparing themselves for the inevitable legalization of the recreational market. Practically speaking, these developments mean that LPs will be able to service a surge in demand in the medical market while awaiting legalization of the rec market and may mean that there is still plenty of room for growth in share price between now and the recreational market coming online.

³*Innovative Partnership connects Canadian employers with medical cannabis,*
<http://www.prweb.com/releases/2017/03/prweb14197690.htm>

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The lawyers in the **Cannabis Law Group at Minden Gross LLP** bring together broad experience in a variety of skill sets to offer cannabis industry stakeholders a complete range of legal services, from start-up, to management, to sale. We know the industry and the law and work in partnership with our clients to achieve creative and effective solutions for their business needs.

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