

Marijuana legalization is likely far off in New Mexico, but you wouldn't know it from the way some businesses are acting.

Recent news of a Canadian company's encroachment into Santa Fe spawned backlash from those critical of an out-of-state, out-of-country company attempting to get a piece of New Mexico's medical marijuana industry.

Last month, Toronto-based Nutritional High announced that it would be acquiring 51 percent of shares from and assuming management operations of Sacred Garden, a Santa Fe nonprofit medical marijuana producer that's been operating for nearly five years.

The plan drew immediate backlash from patient advocates and others in the industry.

"We don't need the money that comes in the program going out of state, yet alone out of the country," Tim Scott, president of New Mexico Cannabis Patients Alliance, told *New Mexico Political Report*.

The criticism even may have put speed bumps in front of the deal.

At one point, rumors abounded that the acquisition was falling through. In an interview with *New Mexico Political Report* earlier this week, Sacred Garden President Zeke Shortes acknowledged that the deal was experiencing "significant roadblocks."

"I think the [Department of Health] is experiencing a lot of backlash from patient groups," Shortes said. "They're very interested in covering their ass. I think it has more to do with that than anything."

Consolidating and cashing in on medical marijuana

Written by By Joey Peters NM Political Report
Friday, 15 May 2015 08:19

DOH did not respond to requests for comment for this story.

Nutritional High CEO David Posner later maintained everything was still on track.

“We’re still moving forward with due diligence,” Posner said. “I haven’t stopped moving forward. I only want to do something that’s right, both for my shareholders and the company I’ll be working with, Sacred Garden.”

But Nutritional High’s pending acquisition is just one example of consolidation currently taking place in New Mexico’s medical marijuana industry. Currently, Arizona-based Ultra Health is in a proprietary agreement with New Mexico Top Organics, one of the state’s 23 licensed medical marijuana nonprofits.

Consolidation isn’t limited to out-of-state companies looking for a stake in New Mexico’s Medical Cannabis Program. Reynold Greenleaf & Associates, an Albuquerque-based business formed last year, currently manages both Medzen Services and R. Greenleaf Organics.

Though both Medzen and R. Greenleaf operate as nonprofits, Reynold Greenleaf & Associates is a for-profit management consulting business.

Some question whether the state’s Lynn and Erin Compassionate Use Act, which established the state’s medical marijuana program in 2007, allows such acquisitions. For one, state law requires that all organizations selling medical marijuana be licensed nonprofits. Only 23 nonprofits currently operate in the state—a small pool to consolidate in the first place.

State law also requires all marijuana for the medical program be grown in New Mexico, meaning that out-of-state companies can’t ship cannabis here for sale.

And while other businesses can’t directly takeover medical marijuana nonprofits, they can take charge of any of the nonprofits’ management operations. Scott calls it a loophole.

“You cannot buy or sell a [medical cannabis] producer,” he said. “But they’ve started creating management companies. A management company can come in and assume control.”

While not all management acquisitions are controversial in the medical marijuana community—Scott said he thinks R. Greenleaf is operating well—they do raise a possible future where just a handful of companies control the state’s medical marijuana industry.

Fear of a marijuana monopoly

Leonard Salgado, Ultra Health’s director of New Mexico operations, said the company’s deal with Top Organics amounts to helping it position for the future. Salgado noted how quickly the marijuana industry is evolving.

“We’re so close to Colorado geographically,” Salgado, who would not disclose more details about the deal because the terms are confidential, said. “Who knows when we will be migrating to that model?”

Others see a darker side to these kind of business relationships.

Josh McCurdy, a medical marijuana patient in Ruidoso, said he thinks the management trend is nothing more than businesses jockeying for when New Mexico eventually goes the route of Colorado and several other states.

“They’re looking to gear up to go recreational,” McCurdy said. “That’s why everybody is consolidating and trying to be the bigger or better place, that way they can ride the wave.”

McCurdy himself experienced the downside of limited competition in the industry in 2013.

When McCurdy became a patient, he had what he called a rough experience with marijuana from Compassionate Distributors in Ruidoso, the only medical marijuana producer in the area.

He soon wrote a formal complaint about the quality of Compassionate Distributors' marijuana.

"When it began to burn the cannabis started to pop, crackle and tasted harsh and like chemicals," McCurdy wrote. "I knew then that the medicine was not flushed properly."

Despite the fact that McCurdy's letter wasn't completely critical—he also wrote praises of one of the nonprofit's clerks for being "always so friendly and just a pleasure to purchase from"—Compassionate Distributors stopped letting him buy marijuana.

"We will be removing you from our list of patients," Mandy Denson, an attorney for Compassionate Distributors, wrote back to McCurdy. "While we appreciate the feedback, we run a very small operation. When it becomes clear that a patient relationship will only cause stress and negativity for those who work here, especially when unfounded, we exercise our right to refuse service policy."

McCurdy fears this mentality will become commonplace if just a few producers control New Mexico's future marijuana market.

"If these places consolidate all together in a monopoly, we won't have strain variety," he said. "When you get big money into anything, the compassion is out."

Influx of cash

Nutritional High, which formed last year, rejects the notion that it's some sort of corporate titan trying to take over the local industry.

The Toronto-based company, which doesn't operate in Canada, is in the process of starting a dispensary in Colorado and has a pending application for a dispensary in Illinois. The company currently specializes in edibles designed by Le Cordon Bleu-trained chef Melissa Parks.

The goal, Posner said, is to create a national brand of edibles.

When looking to branch into New Mexico, his company became particularly interested in Sacred Garden's growing and extraction process.

Nutritional High taking control of management will give Sacred Garden an influx of money to up its growing practices as the state expands the number of plants producers are allowed to grow. The increased money will also help Sacred Garden's products keep their THC levels consistent—a problem with edibles in New Mexico and other states.

Posner said the business model will focus on delivering high quality products to patients.

"It's not a corporate mentality that wins in this industry," he said.

Likewise, Shortes said that the deal will allow Sacred Garden to lower prices for patients.

"We can't move forward and get into a better place from a cultivation perspective unless we have an infusion of cash," Shortes said.

As a part of the deal, Nutritional High will create a company called Zephyr to take over management of Sacred Garden. Shortes, according to an official announcement released last month, will be employed by Zephyr and make \$180,000 a year.

Willie Ford, executive director of Reynold Greenleaf & Associates, criticized the setup as “profiteering.”

“If Zeke is employed by the nonprofit, his management services should be with the nonprofit,” Ford said, referring to Sacred Garden.

Until recently, Ford served as executive director for R. Greenleaf Organics, one of the state’s licensed nonprofit medical cannabis producers. Now that he has a role in a for-profit management company, Ford is no longer an employee of the producer, though he still serves on its board.

Reynold Greenleaf’s management of two producers allows both R. Greenleaf and Medzen to split the cost of management from one company.

“Each nonprofit pays less money for the value they get,” Ford said. “That is how it’s supposed to be done.”

‘More headaches’

Shortes, for his part, said the deal with Nutritional High is purely for expanding Sacred Garden’s services to its patients.

State and federal regulations of the program have limited Sacred Garden’s operations over the years. Because it produces and sells a substance that the federal government classifies as a Schedule 1 illegal substance, Sacred Garden isn’t subject to the same federal tax exemptions as other nonprofits.

This, coupled with a \$90,000 annual renewal fee for a medical cannabis license and a cap of 450 plants, has left Sacred Garden limited with what it can do, Shortes said.

He estimated that Sacred Garden owes both him and his wife Kelly \$1 million.

“We haven’t been doing this to make money,” he said. “If we were, we’ve been terrible business people.”

In an industry that is already faces more scrutiny than most, Shortes said backlash over his tentative deal with a Canadian company has only lead to more headaches.

“All I was trying to do was get some funding where we can get into a better facility and get into more production,” he said. “I definitely wouldn’t do this over again because of all of this distraction.”

Though Shortes said terms of Nutritional High’s deal with Sacred Garden may not stay the same as originally envisioned, the deal is still scheduled to finalize at the end of May. Visit: www.nmpoliticalreport.com