

ALERTS**Labor & Employment Law Alert - Illinois Medical Marijuana Bill Signed, Implicates Employment Relationship**

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Illinois became the 20th state in the U.S. to legalize medical marijuana with Governor Pat Quinn's signing of the legislation. The Act, called the Compassionate Use of Medical Cannabis Pilot Program Act, permits the medical use of marijuana by individuals suffering from certain debilitating medical conditions when the individual's treating physician has prescribed the drug. It establishes a four-year pilot program that will take effect Jan. 1, 2014.

The Act contains certain employment-related provisions. Notably, employers are prohibited from discriminating against or penalizing a person solely for his or her status as a patient qualified and registered to receive medical marijuana. Such discrimination or penalization is permitted, however, where failing to do so would put the employer in violation of federal law or cause it to lose a monetary or licensing-related benefit under federal law.

Employers are not required to allow individuals to smoke cannabis on their property. Nor does the Act prohibit employers from: (1) enforcing neutral policies regarding drug testing, zero-tolerance, and drug free workplaces; (2) disciplining employees for violating a workplace drug policy; or (3) adopting "reasonable regulations concerning the consumption, storage, or timekeeping requirements for qualifying patients related to the use of medical cannabis."

Of the 20 states with medical marijuana laws, many do not contain employment-related provisions. Those that do, like Illinois, make clear that employers may prohibit the use – and usually the possession – of marijuana in the workplace. In addition, employers in all states may prohibit employees from working while under the influence of marijuana and terminate employees who are impaired at work.

Additional facts regarding the new Illinois law, which is designed to be one of the strictest of its kind, are included below:

- A person cannot be prescribed more than 2.5 ounces of marijuana during a 14-day period and cannot possess more than 2.5 ounces of marijuana at any time.
- The prescribing physician must have a prior and ongoing medical relationship with the patient.
- The prescribing physician must find that the patient has one of approximately 35 listed debilitating medical conditions for the marijuana to be prescribed.

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- Patients must buy the marijuana from one of 60 dispensing centers throughout the state and may not legally grow their own.
- Designated caregivers may be permitted to purchase and administer marijuana on behalf of patients. Any such caregivers must undergo background checks.
- Users will carry cards that indicate how much they have bought to prevent stockpiling. The Illinois Department of Public Health will issue the cards.
- Dispensing centers will be under 24-hour camera surveillance.
- Marijuana will be grown inside up to 22 cultivation centers registered with the state.
- Workers at dispensing and cultivation centers will undergo criminal background checks.
- Marijuana use will be banned in public, in vehicles, around minors, and near school grounds. Property owners will have the ability to ban marijuana use on their grounds.

A full text of the Act can be found here. We will keep you updated on developments in this area.

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