

COMMUNITY ASSOCIATION LAW ALERT

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The Florida Medical Marijuana Law and Your Community Association — What You Need to Prepare For

By ***Ashley D. Lupo***, Partner

With the recent passing of the Florida Medical Marijuana Law, there are two primary concerns for community associations and country clubs as it relates to this new amendment:

1. Do you have rules in place regarding usage on your property?
2. Have you updated your Employment Handbook and/or adopted policies (for those that do not have a formal handbook) to address the usage of medical marijuana by your employees?

There are a myriad of potential employment and liability issues that will arise due to the new law. The following information will help prepare you for any concerns you might have.

Summary of the Amendment

On November 8, 2016, Florida voters passed Amendment 2, which will become effective January 2017. The Amendment allows the medical use of marijuana for persons with debilitating medical conditions, including HIV, Alzheimer's disease, cancer, seizures, multiple sclerosis, and other conditions, as determined by a licensed Florida physician. A physician's certification may only be provided after the physician has conducted a physical examination of the patient and fully assessed the patient's medical history. The Florida Department of Health has six months, or until June 2017, to create the regulations for the implementation and enforcement of the Amendment.

The law also states that employers have the right not to accommodate the on-site use of medical marijuana at a place of employment.

Points of Concern for Community Associations and Country Clubs

Regardless of the passage of the new Amendment, it is important to note that marijuana remains a Schedule I drug under the Federal Controlled Substances Act. The use or possession of marijuana is still illegal under federal law. Thus, our associations and clubs can restrict and prohibit usage of medical marijuana by adopting the appropriate policies and rules. For your employees, these include rules related to adverse employment action, employee drug testing procedures and prohibited substances, workplace conduct, and policies and procedures for employees. At this time, it is important to review your employee handbook to ensure that it includes the proper procedures for drug testing and workplace policies that prohibit or restrict the possession, consumption, or use of marijuana by employees. Please consult with your attorney before adopting any new policies.

Impact on Other Industries

The new medical marijuana law will have far-reaching effects. Some of the major industries affected include the following; clients in these fields should speak with legal counsel and revisit as the law develops. Roetzel has attorneys in each of these areas to provide specific guidance.

1. Real Estate Industry
 - a. Zoning
 - b. Leasing
 - c. Insurance Considerations

2. Financing
 - a. Banking
 - b. Due Diligence
 - c. Regulations

3. Healthcare
 - a. Medical Malpractice
 - b. Caregiver Regulations
 - c. Insurance Considerations

4. Business
 - a. Establishment of Medical Marijuana Companies
 - b. Compliance with State Law
 - c. Violations of Federal Law

We will continue to provide updates as new regulations are adopted and further guidelines are provided by the legislature. For additional information regarding this alert or for advice on preparing these policies, please contact one of the listed Roetzel attorneys.

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