

PUBLIC LAW ALERT

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Florida Medical Marijuana Law Will Take Effect January 2017

By Cassandra Manna, Associate

Florida voters passed a new medical marijuana law, Amendment 2, on November 8, 2016. Florida joins 27 other states, the District of Columbia, Puerto Rico, and Guam in allowing public medical marijuana programs. The new law will have far-reaching effects on the business community, real estate development, employment law, and others, but it is silent on many key issues that concern players in this field.

Below is a summary of the law. It is important to note that marijuana remains a Schedule I drug under the federal Controlled Substances Act. Under federal law, it is illegal to use or possess marijuana.

Roetzel will continue updating our clients as more information is released.

When does the law take effect?

January 2017

Who can legally use medical marijuana?

Only people with “debilitating medical conditions” can legally use medical marijuana.

Those medical conditions include:

1. Cancer
2. Glaucoma
3. HIV
4. AIDS
5. Hepatitis C
6. ALS
7. Crohn’s Disease
8. Parkinson’s Disease
9. Multiple Sclerosis
10. PTSD
11. Epilepsy
12. Other conditions for which a physician believes that the medical use of marijuana would likely outweigh the potential health risks for a patient

How and where do patients get medical marijuana?

Patients will need a physician certification from a physician licensed in the state of Florida to receive medical marijuana. A physician certification may only be provided after the physician has conducted a physical examination of the patient and done a full assessment of the patient’s medical history.

What are the rules and regulations for medical marijuana?

The bill is silent on direct rules and regulations. The industry will be regulated by the Florida Department of Health. The Department of Health has six months, or until June 2017, to develop the rules and regulations for this industry. Please note that the 2014 Compassionate Medical Cannabis Act is still in place and effective.

What are the rules for and the steps to participate in the medical marijuana industry?

No rules for or steps to participate in the industry have been established at this time. The Florida Department of Health must establish procedures for the issuance of qualifying patient and personal caregiver identification cards, procedures for the registration of Medical Marijuana Treatment Centers, and regulations that define the amount of marijuana that could reasonably be presumed to be an adequate supply for a qualifying patient. These must be developed by June 2017, and the Department of Health must actively issue these by September 2017.

Do employers have to accommodate medical marijuana prescriptions?

The law specifically states that employers have the right not to accommodate the on-site use of medical marijuana at a place of employment. The law does not elaborate further. Employers should review their drug policies and consult legal counsel until further guidance is provided by the state legislature and the Florida Department of Health.

What other industries will be affected by this new law?

The new medical marijuana law affects every single employer in the state of Florida. Some of the major industries that will be affected include the following, but this is not an exhaustive list. Clients in these fields should discuss any legal considerations or concerns with their attorneys as the law develops and new rules and regulations are released.

- **Employers**
 - Drug Testing and Policies
 - Workplace Conduct
 - Healthcare Policies
- **Real Estate Industry**
 - Zoning
 - Leasing
 - Insurance Considerations
- **Financing**
 - Banking
 - Due Diligence
 - Regulations
- **Healthcare**
 - Medical Malpractice
 - Caregiver Regulations
 - Insurance Considerations
- **Business**
 - Establishment of Medical Marijuana Companies
 - Compliance with State Law
 - Violations of Federal Law
 - Insurance Considerations

For additional information regarding this alert, please contact one of the listed Roetzel attorneys.

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