

Illinois Opioid Pilot Program A. K.A. Medical Marijuana Law 2.0

Labor & Employment Law Update

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On August 28, 2018, Illinois Governor, Bruce Rauner, signed into law the Opioid Alternative Pilot Program which expands and modifies the Illinois Medical Marijuana law in several important ways that are relevant to employers.

First and foremost, the Pilot Program allows doctors to certify if an individual qualifies to use medical marijuana under the Opioid Alternative Pilot Program as an alternative to prescribing opioids (such as Codeine, Norco, Vicodin, Hydrocodone, Demerol, or Percocet).

In this day and age, almost any serious injury in which there is surgery or pain issues, doctors will prescribe a pain killer, which is often an opioid. Under the Opioid Alternative Pilot Program doctors will now have the ability to certify an individual to get medical marijuana, instead of prescribing opioids. In doing so, an employee's doctor must certify that the employee has been "diagnosed with and is currently undergoing treatment for a medical condition where an opioid has been or could be prescribed." Once the doctor's written certification is uploaded to the Illinois Cannabis Tracking System and verified, the employee will receive a "Provisional Registration" which will allow the individual to purchase medical marijuana for a period of 90 days.

While we are waiting on the Illinois agencies to issue rules and regulations to clarify this process, it appears this "Provisional Registration" will allow an individual to purchase medical marijuana the same day that they receive the written certification – much like an individual could pick up a prescription for opioids from a pharmacy the same day they visited their doctor and got the opioid prescription.

The law also extends "Provisional Registrations" to individuals who are certified as having a debilitating medical condition. This means that individuals who seek to become registered medical marijuana users no longer have to wait three to four months to receive their registration cards before being able to purchase medical marijuana. Rather, they can get a "Provisional Registration" simply by registering online through the Illinois Medical Cannabis Pilot Program's eLicense System. Once registered, individuals will get a Provisional Registration that will allow them to purchase medical marijuana while the Illinois Department of

Public Health processes their application.

The law also expands access by removing the section of the law that prohibited individuals with certain criminal convictions from becoming registered users and with it the requirement for fingerprints and background checks.

All in all, the Opioid Alternative Pilot Program significantly expands who can get medical marijuana in Illinois and provides faster and easier access. This means that Illinois employers can expect to see more employees who are legally allowed to purchase and use medical marijuana in Illinois.

A few steps that employers can take to make sure they are ready for this program are:

- Make sure managers and supervisors are aware of this change in the law and the importance of properly documenting any reasonable suspicion drug tests.
- Make sure that Employee Handbook and Drug Testing Policies are up to date.
- Understand how to enforce a Drug Free Workplace policy, without discriminating against a medical marijuana cardholder

*This article was changed after initial publication to make clear that the doctors will not be “prescribing” medical marijuana, but rather will be “certifying” that the individual has been “diagnosed with and is currently undergoing treatment for a medical condition where an opioid has been or could be prescribed.”

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