

Let the Countdown Begin for the Licensing of Medical Marijuana Registered Users, Dispensaries and Cultivators!

Labor & Employment Law Update

on July 18, 2014

Although the Illinois Medical Marijuana law went into effect on January 1, 2014, marijuana (medical and recreational) is still currently illegal to be possessed or used in Illinois. On July 16, 2014, a significant step was taken towards changing that when the Joint Committee on Administrative Rules (JCAR) approved the administrative rules for the Illinois Medical Marijuana law.

The administrative rules address the licensing of registered users, dispensaries and cultivators, as well as regulations on the operation and management of dispensaries and cultivators. However, the administrative rules still do not provide any guidance to employers on how to comply with the conflicting language of the Illinois Medical Marijuana law when it comes to enforcing drug policies, drug testing and registered users.

With the approval of the administrative rules, applications to become a registered user will start being accepted September 1, 2014, with individuals whose last names begin with A to L being able to submit applications between September 1, 2014 and October 31, 2014, those with last names beginning with M to Z submitting applications between November 1, 2014 and December 31, 2014, and on an open year round basis beginning January 1, 2015. Under the Illinois Medical Marijuana law the Department of Public Health will have 30 days to approve or deny a completed application to become a registered user. This means that individuals will start becoming licensed as registered medical marijuana users by at least October 1, 2014.

That being said, under the law registered users are only allowed to purchase medical marijuana from Illinois licensed dispensaries, which in turn are only allowed to purchase marijuana that is grown in Illinois by an Illinois licensed cultivator. While the administrative regulations set the application process for the 60 dispensary licenses and 21 cultivator licenses, the actual dates that the Departments will start accepting applications have not been set. It is anticipated that the application period for dispensaries and cultivators will be during the fall of 2014, if not sooner. Once the application periods are set, the Departments will post such on their websites.

Even after the dispensaries and cultivators are licensed, registered users will still have to wait for the first crop of marijuana grown by the cultivators in Illinois before they will be able to legally purchase, possess and use medical marijuana in Illinois. Thus, it is anticipated that the legal purchase, possession and use of medical marijuana in Illinois will not occur until early 2015.

It is important that employers take notice of this and proactively take steps to ensure that their policies and procedures are in line with the law. Additionally, employers should make sure to remind employees of their policies on drugs, including prescription drugs and medical marijuana, and specifically the possession of such on company property. This is vitally important to avoid situations where an employee absent-mindedly forgets the policy. While employers may think this is common sense, recently after recreational dispensaries opened in Washington, the City Attorney for Seattle City, Pete Holmes, violated Seattle City's drug-free workplace policy by bringing marijuana he had legally purchased into city offices.

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