



Client UPDATE from the Riker Danzig Cannabis Law Group

Publication:

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Governor Murphy Announces the Expansion of the Medical Marijuana Program in New Jersey

On March 27, 2018, Governor Phil Murphy announced the substantial expansion of the Medical Marijuana Program (MMP) under New Jersey's Compassionate Use Medical Marijuana Act (CUMMA), which includes the following:

The creation of the Medical Marijuana Division in the Department of Health, to be headed by newly appointed Assistant Commissioner Jeffrey A. Brown;

- Expanding the list of debilitating medical conditions and streamlining the process for the addition of debilitating conditions;
- Reducing the MMP registration fee from \$200 to \$100, and including veterans and senior citizens among those qualified for the reduced \$20 registration fee;
- Permitting qualifying patients to have two registered primary caretakers authorized to obtain medical marijuana for them.
- Expediting the application process for future alternative treatment centers (ATCs);
- Permitting ATCs to dispense medical marijuana at satellite locations and cultivate medical marijuana at more than one cultivation site;
- Creating separate endorsements for ATC permits, allowing ATCs to engage in one or more specializations (cultivation, manufacturing, or dispensing);
- Eliminating the mandatory registry for physicians interested in providing care to MMP patients; and
- Working with the Legislature to amend CUMMA to permit (1) patient registration at more than one ATC; (2) adult use of edibles; and (3) marijuana to be used as a first-line treatment for certain conditions.

All changes to the MMP, and recommended changes to CUMMA, can be found in the Department of Health's March 26, 2018 Report, which is available at

http://www.state.nj.us/health/medicalmarijuana/documents/EO6Report_Final.pdf.

Governor Murphy Announces Budget for 2019 Fiscal Year and Affirms Administration's Goal of Legalizing and Regulating Recreational Marijuana

On Tuesday, March 13, 2018, Governor Murphy made his first budget address for fiscal year 2019 at the Statehouse in Trenton. The Administration intends to legalize adult-use marijuana by January 1, 2019 and anticipates that legalization will generate approximately \$80 million in revenue. Governor Murphy recognized and thanked those in the Assembly and Senate, such as Senators Ronald L. Rice and Robert W. Singer, that have proposed a decriminalization bill, but affirmed his position that legalization, regulation, and taxation of recreational marijuana is the only effective means of reducing the disproportionate marijuana-related arrest rate for minorities, the high costs associated with prosecuting marijuana-related activity, and the illegal marijuana market.

Governor Murphy further indicated that cost savings from marijuana-related prosecutions would be directed to addressing illegal gun trafficking, providing "stronger community policing," and fighting the opioid epidemic, while State tax revenues from a legalized marijuana market would be invested into those communities most negatively impacted by non-violent drug-related convictions and mandatory-minimum drug-sentencing.

Assemblyman Reed Gusciora Introduces Legislation Proposing the Legalization and Regulation of Recreational Marijuana

On Monday, March 12, 2018, Assemblyman Reed Gusciora introduced Assembly Bill No. 3581, the "New Jersey Adult Recreational Use Marijuana Law," to legalize, regulate, and tax the adult-use, cultivation, manufacture, and distribution of small amounts of marijuana. Assembly Bill No. 3581's provisions are very similar to Senate Bill No. 830/Assembly Bill No. 1348, previously introduced on January 9. Unlike Senate Bill No. 830/Assembly Bill No. 1348, however, Assembly Bill No. 3581 proposes substantially more dispensaries (a maximum of ten recreational dispensaries in each legislative district for a total of 400 potential recreational dispensaries state-wide), a lower tax rate cap of 15%, and permitting "home growing" of marijuana plants.

The Division of Consumer Affairs Revisits Whether to Reschedule Marijuana

On February 27, 2018, the Division of Consumer Affairs stated that it would withdraw its appeal of the Appellate Division's decision in *Kadonsky v. Lee*, 452 N.J. Super. 198 (App. Div. 2017) and "embark on a process to revisit whether the currently accepted uses for medical marijuana warrant any change in its classification." In *Kadonsky*, the Appellate Division reversed the Director of the Division of Consumer Affairs' denial of a request to reclassify

marijuana, holding that the Director has authority under New Jersey's Controlled Dangerous Substances Act (CDSA) to reclassify marijuana without a change to existing federal law.

Schedule I controlled substances under the CDSA must have “no accepted medical use in treatment in the United States.” In enacting the Compassionate Use Medical Marijuana Act (CUMMA), however, the Legislature declared that “[m]odern medical research has discovered a beneficial use for marijuana in treating or alleviating the pain or other symptoms associated with certain debilitating medical conditions.”

In remanding the matter to the Director to consider reclassification, the *Kadonsky* Court opined that “[w]hile there may have been ‘no accepted medical use in treatment in the United States’ for marijuana when the CDSA became effective, any argument suggesting that premise is still valid in the post-CUMMA era strains credulity beyond acceptable boundaries.”

Rohrabacher-Blumenauer Amendment is Renewed Through September 2018

As part of the \$1.3 trillion federal spending bill enacted on March 23, 2018, Congress renewed the Rohrabacher-Blumenauer (previously known as the Rohrabacher-Farr) Amendment through September 2018. The Amendment is an appropriations rider with bipartisan support that prohibits the Justice Department from using federal funds to prevent states from implementing medical marijuana laws. The Ninth Circuit in *United States v. McIntosh* held that the prohibition under the Amendment also prevents the Justice Department from spending federal funds to prosecute individuals who are engaged in conduct that is permitted by, and in compliance with, state medical marijuana laws. This is the eleventh time the Amendment has been approved or renewed since its first passage in 2014.

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