Ohio Medical Marijuana Law to Take Effect in September

By Cassandra Manna, JD, Roetzel and Andress, LPA

Ohio’s new medical marijuana bill (HB 523) becomes effective on September 6, 2016. Passed by the Ohio General Assembly at the end of May and signed by Governor Kasich on June 6, the law makes Ohio the 25th state to pass a medical marijuana bill. The new law will have far-reaching effects on the business community but it is silent on many issues that concern employers.

Below is a summary of the law. We have listed facts for ease of reference; issues not fully addressed by the law are also noted.

Who can legally use medical marijuana?
1. Only people with the following medical conditions can legally use medical marijuana:
   - HIV/AIDS
   - ALS – Amyotrophic Lateral Sclerosis
   - Alzheimer’s Disease
   - Cancer
   - CTE – Chronic Traumatic Encephalopathy
   - Crohn’s Disease
   - Epilepsy or other seizure disorders
   - Fibromyalgia
   - Glaucosa
   - Hepatitis C
   - Inflammatory Bowel Disease
   - Multiple Sclerosis
   - Pain – chronic, and severe or intractable
   - Parkinson’s Disease
   - PTSD – Post-Traumatic Stress Disorder
   - Sickle Cell Anemias
   - Spinal Cord Disease or injury
   - Tourette’s Syndrome
   - Traumatic Brain Injury
   - Ulcerative Colitis

How and where do patients get medical marijuana?
Patients will need a recommendation from a doctor to receive a medical marijuana prescription. They must have an ongoing relationship with the doctor. The bill does not say where patients will get medical marijuana. Patients will have to receive the marijuana from states with legal dispensaries or will have to obtain it in other manners.

What are the rules and regulations for medical marijuana?
The bill is silent on direct rules and regulations. The bill calls for the formation of a bipartisan Medical Marijuana Advisory Committee within the Board of Pharmacy. The Committee must include two pharmacists, two physicians, a nurse, a researcher, and a member from each of a listed interest group. The committee will issue recommendations related to the Medical Marijuana Control Program.

Additionally, the Department of Commerce, Ohio State Pharmacy Board, and Ohio State Medical Board will need to determine how many licenses to issue and the guidelines for writing a marijuana prescription and filling that prescription.

What are the rules for and the steps to receiving a license?
No rules for or steps to receive a license have been established at this time. The rules, standards, and regulations will be established by the Medical Marijuana Control Program (the Program). The Program will be housed within the department of commerce and the board of pharmacy. The Program will issue four different licenses. First, a party can obtain a cultivator license for growing medical marijuana. Second, a party can obtain a processor license for processing the marijuana plant into a legal consumable form. Third, a party can obtain a laboratory license for testing and research purposes. Finally, a party can obtain a retail dispensary license for distributing the medical marijuana to registered patients and caregivers. The department of commerce will adopt the rules establishing standards and procedures for the Program for cultivators, processors, and laboratories. The board of pharmacy will adopt rules establishing standards and procedures for the retail dispensaries.

The department of commerce must establish the following standards and procedures for the Program’s processor and laboratory licenses by September 6, 2017, and for cultivator licenses by May 4, 2017:
1. Application procedures and fees for licenses and registration
2. All of the following:
   a. Conditions for eligibility for a license
   b. Criminal offenses that disqualify a party from obtaining a license
   c. Criminal offenses that do not disqualify a party from obtaining a license if the offense is more than five years old
3. Number of cultivator licenses allowed at any time
4. Establish license renewal schedule, procedures, and fees
5. Specify reasons license suspended, revoked, or renewal withheld
6. Standards to lift license or registration suspension
7. Determine whether a cultivator or processor that existed at a location before a school, church, public library, public playground, or public park became established within 500 feet of the cultivator or processor may remain in operation, shall relocate, or have license revoked
8. Specify by form and tetrahydrocannabinol content the 90-day supply allowed for possession by a patient
9. Paraphernalia and accessories allowed to administer weed to registered patient
10. Procedures for issuance of patient and caregiver identification cards
11. Forms and methods of medical marijuana use attractive to minor patients
12. All of the following:
   a. Criminal offenses that disqualify a person from employment with a license holder
   b. Criminal offenses that do not disqualify a person from employment with a license holder if the offense is more than five years old
13. Forms and methods of medical marijuana use attractive to minor patients
14. All of the following:
   a. Conditions for eligibility for a license
   b. Criminal offenses that disqualify a party from obtaining a license
   c. Criminal offenses that do not disqualify a party from obtaining a license if the offense is more than five years old
15. Establish a program to assist veterans and indigent patients in obtaining medical marijuana

In addition, the law states that no less than 15% of all licenses available must go to Ohio residents who are also a member of one of the following economically disadvantaged groups: Blacks/African Americans, American Indians, Hispanics/Latinos, and Asians.

Again, the rules, standards, and procedures for the Program have not been established. This is an overview and list of the rules, standards, and procedures the Program must develop once it is established and functioning. Until then, no licenses are available. Roetzel Andress will continue to provide updates as more information is released but do not hesitate to contact the firm with further questions or concerns.

This article was recently featured in Roetzel’s Media Alerts, July 2016. Posted with Permission from Roetzel and Andress, LPA – copyright 2016, by Roetzel and Andress.
Medical Marijuana Legalization will have Minimal Impact on the BWC

The legalization of medical marijuana will take effect Sept. 8. This new law, however, will not widely affect the Bureau of Workers’ Compensation (BWC) business practices. Certain factors will remain unchanged, such as the BWC Drug-free Safety Program, BWC will not be required to pay for patient access to marijuana, and workers’ compensation will not be awarded to an employee who is under the influence of marijuana.

In addition, the law continues to protect employers’ right. Nothing in the new law requires an employer to accommodate an employee’s use of medical marijuana. An employer can refuse to hire someone because of his or her medical marijuana use and can also discharge or take an adverse employment action against a worker for the same reason. If an employee was injured as a result of being under the influence of marijuana, he or she is not eligible for workers’ compensation, regardless of whether the marijuana is recommended by a physician. And, although the law does not specifically address reimbursement for medical marijuana recommended for injured workers, Ohio law already has rules and statutes in place that limit what medications are reimbursable by the BWC.

The BWC recommends that employers establish a drug-free workplace, if they haven’t done so already or review and update their existing policy, to best protect their workers and themselves. They stress the importance of having a policy because certain sections of the new law reference the use of medical marijuana in violation of an employer’s drug-free workplace policy, zero-tolerance policy or other formal program or policy concerning the use of medical marijuana. Employers are encouraged to talk with their human resources or legal department to determine what that means specifically for their workplace.

Medical Marijuana Update from the State Medical Board of Ohio

Governor John R. Kasich signed House Bill 523—which “authorizes the use of marijuana for medical purposes and established the Medical Marijuana Control Program”—into law on June 8, 2016. The legislation goes into effect on Sept. 8, 2016. The Ohio Department of Commerce, State Medical Board of Ohio (SMBO), and Board of Pharmacy will regulate aspects of the legislation.

House Bill 523 authorizes the SMBO to adopt rules in accordance with the Administrative Procedures Act, for the following:

- The procedures when applying for a certificate to recommend;
- The conditions that must be met to be eligible for a certificate to recommend;
- The schedule and procedures for renewing a certificate to recommend;
- The reasons for which a certificate may be suspended or revoked;
- The standards under which a certificate suspension may be lifted;
- The minimal standards of care when recommending treatment with medical marijuana.

The SMBO has one year from the effective date of the bill to adopt the rules.

Website Provides Information About the Development of Ohio’s Medical Marijuana Control Program

The Ohio Medical Marijuana Control Program will allow people with certain medical conditions, upon the recommendation of an Ohio-licensed physician certified by the State Medical Board, to purchase and use medical marijuana.

While the legislation set a basic framework for the program, it left the task of establishing specific rules and guidelines for the cultivation, processing, testing, dispensing and medical use of marijuana to different state agencies. A website has been designed to keep Ohioans informed about the development of Ohio’s Medical Marijuana Control Program, including important timelines in the rule-making process and the announcement of opportunities for public input: http://medicalmarijuana.ohio.gov/