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## The Medical Cannabis Act May Legalize Medical Marijuana in Pennsylvania

Pennsylvania may soon join 23 other states and legalize marijuana for medical purposes. Earlier this year, the Pennsylvania Senate passed SB3, The Medical Cannabis Act. This bill would permit the legal use of some forms of medical marijuana in the Commonwealth.

The bill was stalled in the House of Representatives Health and Rules Committee, but recently it has been moved to another committee and is gaining considerably more urgency. There is a bipartisan task force focusing on devising a bill that can quickly pass the House and make it to the desk of Governor Tom Wolf, who has pledged to sign it. Polling has suggested that there is 87 percent support for medical marijuana among Pennsylvania residents, and there is strong, bipartisan support in the House.

SB3 provides a framework for the bill. The only means of administering the drug would be through various oils and titrates, not through smoking or ingesting. The bill also provides a limited number of conditions that would qualify a patient for medical marijuana. Proponents of medical marijuana are fighting for a more expansive bill and urging legislators to allow for smoking of the dried plant and adding chronic pain as a condition that would qualify a patient for medical marijuana.

Some of the notable sections that carriers and employers would be interested in from the original draft of SB3 that will likely remain in any new bill, include Sections 706 and Chapter 9. Section 706 states that no state or government assistance program or private health insurer shall be required to reimburse a person for the costs associated with medical use of cannabis and an employer is not responsible to accommodate the medical use of cannabis in the workplace. However, it should be noted that a New Mexico Appellate Court of Appeals has ordered a workers' compensation carrier to pay for medical marijuana in that state. Further, Chapter 9 of SB3 provides that a patient legally receiving medical cannabis should be protected from discrimination in the hiring process and shall not be terminated if receiving medical cannabis legally. There are, however, exceptions that permit the employer to take action if it is determined that an employee is abusing or misusing the cannabis in the workplace during ordinary hours.

**Comment:** Employers should be aware that there have been multiple cases and to date no State Supreme Court has found in favor of a patient using medical marijuana legally under state law when an employer has terminated the employee for such use. Given the attention to this legislation in recent months in Pennsylvania, legalization for medical purposes could be granted before the end of the year. It is crucial that employers understand the implications if medical cannabis is legalized.

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