

## What Employers Need to Consider Now that Pennsylvania Becomes the 24th State to Legalize Medical Marijuana

Governor Tom Wolf signed SB3 into law yesterday which makes Pennsylvania the 24th state to legalize medical marijuana. The bill will go into effect on May 17, 2016. The law includes provisions of special interest to insurance carriers and employers.

The measure will allow people suffering from certain serious medical conditions including but not limited to cancer, epilepsy, multiple sclerosis, autism, glaucoma, post-traumatic stress disorder and repetitive seizures to access medical marijuana in pill, oil, or ointment form at dispensaries statewide. The bill will permit 25 growers or processors statewide and the Department of Health to authorize dispensaries across the state.

Section 513 addresses prohibitions. It specifically prohibits those taking defined amounts of medical marijuana from working with certain chemicals or high voltage electricity, performing duties at heights or in confined spaces, any task any employer deems life threatening while under the influence of medical marijuana and any duty which could result in a public health or safety risk.

Section 2101 states that there is nothing in the Act that shall be construed to require an insurer or health plan, whether paid for by the Commonwealth funds or private funds, to provide coverage for medical marijuana. It should be noted that the New Mexico Court of Appeals has ordered a workers' compensation carrier on three occasions to pay for medical marijuana. The Court relied heavily on the "Cole Memo" that came out of the Department of Justice to all U.S. Attorneys in 2013 that essentially stated the federal government would not interfere with how states administered their marijuana laws.

**Comment:** It is crucial that employers and insurance carriers understand the implications of the new legislation and its interplay with federal law such as the CSA, the Americans with Disabilities Act and state and local disability laws and adjust their policies accordingly.