

New Jersey Delays Implementation of Medical Marijuana Law

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A previous Morgan Lewis LawFlash, “New Jersey Employers Face New Questions Over Employee Marijuana Use” (January 10, 2010), reported that the New Jersey Legislature had passed the Compassionate Use Medical Marijuana Act (the Medical Marijuana law), making New Jersey the fourteenth state to permit regulated use of medical marijuana. New Jersey’s Medical Marijuana law called for the New Jersey Department of Health and Senior Services to license, by October 1, 2010, six treatment centers where the drug would be dispensed to registered patients. However, New Jersey Governor Chris Christie asked lawmakers to delay the implementation of the medical marijuana program by one year to allow the Department to draft regulations concerning the growth, sale, and dispensation of the drug.

On June 29, lawmakers agreed to delay implementation of the program—postponing the implementation by three months, until January 2011.

This delay provides employers additional time to determine whether and to what extent the Medical Marijuana law affects their existing drug and alcohol policies. The Medical Marijuana law itself provides employers little guidance on how the limited decriminalization of marijuana use will interplay with employment laws and policies such as the Americans with Disabilities Act, the New Jersey Law Against Discrimination, the Conscientious Employee Protection Act, and employer drug and alcohol policies. The current absence of a regulatory framework also leaves employers with many more questions than answers. Hopefully, the Department’s forthcoming regulations will clarify some of the open issues facing employers.

Morgan Lewis’s Labor and Employment Practice regularly advises employers with respect to all aspects of federal and state disability and discrimination laws and issues related to employee drug use. We will continue to follow this matter and will provide updates on any new developments.

If you have any questions or would like more information on any of the issues discussed in this LawFlash, please contact any of the following Morgan Lewis attorneys:

Princeton

Rene M. Johnson

609.919.6607

rjohnson@morganlewis.com

Thomas A. Linthorst

609.919.6642

tlinthorst@morganlewis.com

Richard G. Rosenblatt

609.919.6609

rosenblatt@morganlewis.com

James P. Walsh

609.919.6647

jwalsh@morganlewis.com

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