

July 30, 2021

Labor and Employment Law Update

On July 29, 2021, the Governor of Puerto Rico, Hon. Pedro Pierluisi Urrutia signed into (“the Act”) in order to include employment protections to patients register and authorized to use medicinal cannabis. Up to now, the Act regulated the medicinal cannabis use in Puerto Rico, but was mostly silent within the context of employment.

With the amendment, the Act now expressly prohibits any act of discrimination in the workplace against an employee or potential employee on account of being patient of medicinal cannabis. The amendment states that patients registered and authorized to use medicinal cannabis and identified as such with their employers will be considered within a protected category for purposes of employment protection laws, and no employer may discriminate against them, either in the process of recruiting, hiring, appointment, termination, or in the imposition of any penalty in the job.

The amendment suggests that these protections will not apply when an employer proves by a preponderance of the evidence that the use of medicinal cannabis:

- represents a threat of harm or danger to people or property.
- interferes with the employee’s performance and essential job functions:
- exposes the employer to the loss of any license, permit, or certification related to any law, regulation, or federal program;
- or is ingested or possessed in its workplace by an employee without prior written authorization from the employer.

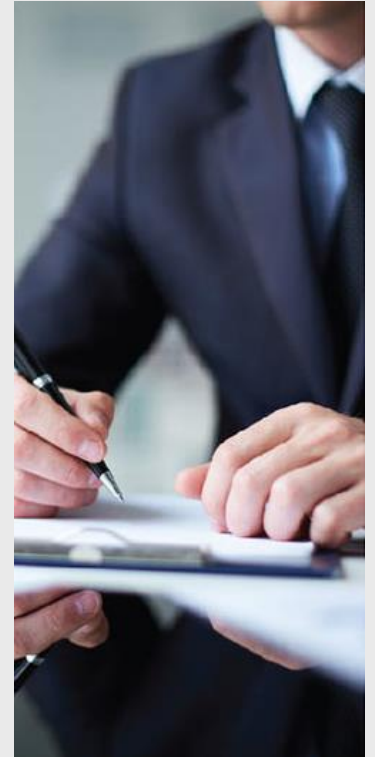
On the other hand, the amendment also grants protections to employers ensuring that these will not be penalized or denied any contract, license, permit, certification, benefits, or fund under the laws of the Commonwealth of Puerto Rico for the sole reason of hiring patients registered and authorized to use medical cannabis.

Finally, the amendment demands the Medicinal Cannabis Regulatory Board and the Department of Labor and Human Resources to implement the necessary regulations and administrative measures to ensure the effective implementation of the amendment within ninety (90) days of its approval.

This amendment represents a transformation of the employment relationships in Puerto Rico, and our attorneys at Reichard & Escalera are available to assist employers in the implementation of these new legal requirements.

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