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HOLY SMOKE!

Recreational Marijuana Use in New York: What Does It Mean for Your Facility?

New Yorkers are abuzz with the news that the state has legalized recreational adult use of marijuana effective September 2022. Under the Compassionate Care Act, skilled nursing facilities (SNF) and assisted living facilities (ALF) have supported the use of medical marijuana for residents suffering from qualifying conditions since the Act was passed in 2014. With legalized adult use of marijuana, how will health care facilities and their residents be impacted?

Federal Law Prohibits Recreational Use

Health care facilities must be cognizant that marijuana remains illegal at the federal level as it remains classified as a Schedule I substance under the Controlled Substances Act. While the momentum exists to remove that designation by federal lawmakers, facilities should be cautioned not to permit recreational marijuana to be used on premises unless and until that federal legislative change occurs.

Expansion of Medical Marijuana Program

Under the new adult use recreational marijuana laws, the medical marijuana program in New York will undergo changes to make the use of medical marijuana by patients less restrictive. For example, Alzheimer's disease and muscular dystrophy, along with other conditions, will be added to the list of "qualifying conditions" for medical marijuana use. [Click here for information on the Compassionate Care Act and list of qualifying conditions.](#) This will provide new treatment options for many residents of skilled nursing facilities and assisted living communities throughout the state.

Additionally, patients will be allowed to possess a 60-day supply of medical marijuana, doubling the amount they were previously allowed to possess under the Compassionate Care Act. This will make it easier for skilled nursing and assisted living residents to obtain medical marijuana, effectively reducing in half the number of times an individual must travel to a medical marijuana dispensary to obtain medical cannabis products or otherwise arrange delivery of medical cannabis to the facility.

Another significant change to the medical marijuana program is that patients will now be legally permitted to smoke marijuana as part of their medical treatment, provided that their doctor authorizes or directs this manner of administration. This may be concerning to residential health care facilities, who may elect to ban this form of marijuana administration in order to comply with existing "no smoking" policies on their premises.

These are some of the changes to the rules surrounding the use of medical marijuana which will take effect in the next year. The experienced attorneys at Cona Elder Law can assist you in staying up-to-date on the latest developments in the state and federal laws concerning marijuana use to ensure your facility maintains full compliance with these laws and is insulated from liability.



Please contact us for your free virtual “Best Practices” seminar/webinar, specifically for Leading Age members, to learn more about these and other issues of importance to skilled nursing facilities and assisted living facilities in New York. Call Christina at 631.390.5000 or email cpecoraro@conalaw.com to schedule one today.

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