

MEDICAL MARIJUANA COMES TO PENNSYLVANIA (PART 2): STATE FINALIZES ACT 16'S TEMPORARY PHYSICIAN AND PRACTITIONER REGULATIONS

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Following closely on the heels of the first anniversary of the passage of Act 16, known as the Medical Marijuana Act (the "Act"), the Pennsylvania Department of Health ("PA DOH") published the final Temporary Physician and Practitioner Regulations. This marks the most recent step by the PA DOH in the implementation of the state's medical marijuana program.

Act 16 presents significant business and clinical treatment opportunities for physicians interested in becoming prescribers. However, physicians should be wary of legal and regulatory considerations. As discussed in more detail below, physicians must comply with statutory prescription guidelines, and need to be in continuous contact with the PA DOH regarding changes to patient conditions. The regulations enact physician bans on advertising, receiving remuneration for medical marijuana prescriptions, and holding direct or indirect interests in any medical marijuana organization. It remains to be seen how federal HIPAA (Health Insurance Portability and Accountability Act) and Stark Law concerns will interact with these regulations. Likewise, how will insurance companies handle marijuana-motivated malpractice claims? Moreover, does the prohibition on holding a direct or indirect interest in a marijuana organization present a complete bar to physicians being both investors and prescribers?

The first installment of this series, entitled "Medical Marijuana Comes to Pennsylvania: What to Expect as the Keystone State Rolls Out its New Medical Marijuana Program," provided an overview of the Act generally, including its emphasis on medical research incentives and its temporary regulations for growers, processors, and laboratories. This alert will detail the regulations governing physicians who wish to prescribe medical marijuana in Pennsylvania.

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