



Jan 12, 2018

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Green Grass in the Bluegrass: Kentucky's Medical Marijuana Law

If the bill becomes law, Kentucky will become the 30th state to implement a medical marijuana program. Many thought that Attorney General Jeff Sessions' [announcement](#) to rescind the Cole Memorandum on January 4th would have a chilling effect on marijuana laws and businesses; however, early signs show that is not the case because not only did Kentucky decide to legalize medical marijuana yesterday, [Vermont decided to legalize recreational marijuana](#). Kentucky's medical marijuana program will be run by the Department of Alcoholic Beverage Control.

Kentucky's bill will allow patients to receive medical marijuana after getting a "medical order" from their doctor. This choice of nomenclature is interesting given that [doctors are precluded from prescribing medical marijuana due to federal law](#). Medical Marijuana can be used to treat debilitating medical conditions like anorexia, Crohn's disease, and post-traumatic stress disorder. Kentucky's law also provides for a home delivery service for those qualifying patients, allowing them to receive up to a 90-day supply at their doorstep. A similar provision was included in Ohio's medical marijuana bill but was not included in the final version of the law. Another difference from Ohio law is that Kentucky's bill would allow registered patients to maintain up to twelve mature cannabis plants and twelve seedlings cultivated in an enclosed, locked facility.

There will be three tiers of licensing for prospective cultivators of medical marijuana based on the size of the facility: tier one will consist of facilities that do not exceed 2,500 square feet, tier two will consist of facilities that do not exceed 10,000 square feet, and tier three will consist of facilities that do not exceed 25,000 square feet. Medical marijuana businesses are not allowed to be located within one thousand feet of the property line of a pre-existing public or private school unless the government grants an exception based on the business being located within a densely populated urban area.

Kentucky's medical marijuana bill is one to watch, especially since the federal government only has until January 19 to extend the Rohrabacher Amendment which has been interpreted as prohibiting the federal government from spending money on medical marijuana prosecutions. If the Amendment is not extended, Kentucky's bill may be in jeopardy.

As we have done in Ohio and West Virginia, Frost Brown Todd's health law service team is committed to monitoring Kentucky's medical marijuana law and its far-reaching implications. If you require further information regarding Kentucky's medical marijuana law or medical marijuana law in general, please contact [Brian F. Higgins](#) at bhiggins@fbtlaw.com or [Charles M. Johnson](#) at cmjohnson@fbtlaw.com.

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