Workers' Comp

Marijuana Legalization Gains Ground

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The legalization of marijuana marched forward on Election Day, though it stubbed its toe in North Dakota. Voters in the Peace Garden State rejected a proposal to legalize recreational marijuana. However, voters in Michigan approved a recreational marijuana ballot initiative. In Missouri, voters approved legalizing medical marijuana with a tax that will go to support veteran health care.

In Utah, voters approved Proposition 2, which would legalize medical marijuana. However, prior to the vote, proponents of the measure and the state legislature worked out a compromise bill that will be passed during a special session in mid-November. The special session legislation will supersede the ballot initiative and contains tighter controls than those found in the initiative.

Clearly the federal prohibition on marijuana continues to be superfluous as more states move to legalize marijuana for medical and recreational uses. With the changes in Congress, perhaps 2019 becomes the year when the federal government re-evaluates the status of marijuana as a controlled substance. It may be one bi-partisan issue on which a divided Congress can ultimately agree. President Trump has already signaled his support for change, though it is unclear what level of change would be acceptable. One possible scenario is the federal government will unscheduled marijuana and leave it up to each state to decide how to regulate it. That would allow each state to determine whether or not it could be made available for medical or recreational use and could reserve to the state the ability to determine whether or not insurers would be required to pay for medical use.

Until the federal government acts, purveyors and users of marijuana in any form will continue to work in a hazy world of conflicting legislative environments and insurers will continue to be subject to the whims of the courts when it comes to their responsibility to reimburse patients for the use of medical marijuana.

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