



Employment Auditor's Notepad

PROPOSITION 19

Imagine this: Company employs employee in a position where he operates heavy machinery. While he does not appear to be under the influence of marijuana, Manager sees a plastic baggie containing 0.5 ounces of marijuana fall out of his pocket during working hours. Manager reports the incident to CEO, CEO contacts Lawyer, and Lawyer tells CEO the Company can do *nothing* in response.

Proposition 19 would make the above hypothetical a reality. The "Regulate, Control and Tax Cannabis Act of 2010" will be on the ballot this November. If passed, Proposition 19 would authorize any person 21 years or older to possess, process, share, or transport not more than one ounce of cannabis for personal consumption and not for sale. Proposition 19 would also make it illegal to discriminate against any person for engaging in lawful conduct permitted by the Act unless consumption actually impairs job performance.

If passed, Proposition 19 would present very real enforcement problems for employers and require employers to defend fact-intensive marijuana discrimination cases.

New Workers' Compensation Regulations

MUST BE POSTED BY OCTOBER 8, 2010

The California Division of Workers' Compensation has finalized new regulations primarily related to Medical Provider Network (MPNs). All California employers must post a new "Notice to Employees – Injuries Caused by Work" to inform employees of the recently changed regulations. The new notice must be posted in an obvious location that is frequently passed by all employees, and the notice must be posted by October 8, 2010.

This notice has multiple requirements and must include several pieces of information, including the name of the workers' compensation insurance carrier, emergency phone numbers, the types of illnesses and injuries covered by workers' compensation, to whom the injury should be reported, and a description of the MPN.

If a company already has an existing MPN, it must create a revised MPN notice and post it next to the "Notice to Employees – Injuries Caused by Work" poster no later than October 8, 2010, as well as provide the same MPN notice to any employee who is injured at work as of October 8, 2010 or thereafter. Alternatively, if a company is implementing, changing, or ending its MPN, the company must meet the two requirements listed above, and give all employees notice that the company is implementing, changing, or ending the MPN. The California Chamber of Commerce has published a FAQ that lists the details of the new regulations: www.calbizcentral.com/SiteCollectionDocuments/Workers-Compensation-Final-Regulations-QA_083110.pdf.

Recent CA Verdict/Settlement Report

Race Discrimination Class Action against Eastman Kodak - \$21.3 million
 Vacation Policy Violation Class Action against Lexmark International - \$8.3 million
 Sexual Harassment (sexual comments and visuals only toward individual Plaintiff) - \$2 million

Big Firm Quality • Small Firm Flexibility



4330 La Jolla Village Drive, Ste. 310 • San Diego, CA 92122
 Tel: (858) 554-0500 • Fax (858) 554-0673
www.fleming-pc.com