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How New Marijuana Laws Will Impact the Hospitality Industry

On Feb. 10, 2015, Bill Berger and Matt Arentsen led a roundtable [discussion](#) at the [Hospitality Law Conference](#) in Houston, Texas. Speakers and attendees at the conference represented a broad spectrum of hospitality industry participants, including private attorneys, hotel and restaurant corporate counsel, risk managers, finance executives, real estate developers, human resources managers, loss prevention managers, insurance brokers, and hotel and restaurant owners, managers and operators. Their presentation, titled “How New Marijuana Laws Will Impact the Hospitality Industry,” addressed all 50 states’ varying approaches to the rapidly evolving marijuana-permissive laws. In addition to discussing the current state of the law in all 50 states, Bill and Matt focused on what such laws may mean for hospitality industry companies.

Bill and Matt’s discussion centered on the following topics:

- A 50-state survey of the current state of marijuana-permissive laws.
- Whether various state laws place limitations on an employer’s ability to discipline or discharge employees for the possession or use of marijuana off-duty. Although the Americans with Disabilities Act and other federal laws do not require an employer to accommodate a worker’s use of medical marijuana, some state laws do address these issues. Additionally, in virtually all states with any type of marijuana laws, Bill and Matt discussed specific examples of changes employers typically need to make now to their substance abuse policies.
- Whether state indoor air acts and other state smoking laws prohibit the smoking of marijuana, or just tobacco, within a business’s property. Bill and Matt also discussed the possible application of these laws to vaporizing versus smoking. Anti-smoking laws vary from state to state, and certain laws do not directly address marijuana smoking, much less vaporizing.
- Whether a business can prohibit all marijuana use on company property. And of increasing concern to many businesses, may a business *permit* marijuana use, and if so, what types of use, for example, vaporizing versus edibles versus smoking.
- Whether a business must draw a line between in-state residents who have in-state medical marijuana cards versus out-of-state residents with out-of-state cards. The majority of states with medical marijuana laws do not recognize out-of-state medical marijuana cards, but a handful of states—most notably Nevada—do have reciprocity and allow out-of-state cardholders to purchase and consume marijuana.
- Whether different rules apply to hospitality companies that operate gaming-licensed operations. For example, the Nevada Gaming Control Board has stated, at least for now, that a gaming licensee’s investment or other involvement in a medical marijuana facility or establishment would “tend to reflect discredit upon gaming in the State of Nevada” and, therefore, may be disciplinable.

Headquartered in Denver, with offices throughout the western United States and in Atlantic City and the District of Columbia, Brownstein Hyatt Farber Schreck, LLP assists clients to navigate the growing array of marijuana laws, while maintaining compliance with federal, state and local law. To this end, Brownstein has developed a detailed 50-state survey of the different kinds of marijuana laws currently in

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effect. These laws vary widely, even with respect to states that allow the medical or recreational use of marijuana. Brownstein will continue to update the survey, and Bill and Matt will continue to monitor changing marijuana laws and will provide periodic updates on significant developments in the area. If you or your company would like assistance with marijuana-related compliance issues, or would like to receive a copy of the 50-state survey and periodic updates, please email Bill Berger at bberger@bhfs.com or Matt Arentsen at marentsen@bhfs.com.

This document is intended to provide you with general information regarding evolving marijuana-permissive laws. The contents of this document are not intended to provide specific legal advice. If you have any questions about the contents of this document or if you need legal advice as to an issue, please contact the attorney listed or your regular Brownstein Hyatt Farber Schreck, LLP attorney. This communication may be considered advertising in some jurisdictions.

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