

Practice Update

California Proposes Important Changes to Legal Cannabis Regulation, Including Removal of California Residency Requirements

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Earlier this month, California's nascent Bureau of Cannabis Control proposed legislation designed to harmonize the state's earlier medicinal cannabis regulatory framework (Medical Cannabis Regulatory Safety Act) with the state's recent passage of an adult-use regulatory framework (Adult Use of Marijuana Act). The proposed legislation, intended to eliminate ambiguity between the two sets of laws and strengthen administration, include significant changes. Among these changes are:

Elimination of California Residency Requirements.

When California legalized adult-use of marijuana in November 2016, the new law contained a restriction on applicants seeking to obtain a state license to provide proof of "continuous California residency from or before January 1, 2015." The Bureau proposes to eliminate this residency requirement altogether, opening up the California market to out-of-state applicants.

More Vertical Integration. There are 17 license classifications and six licensure categories (cultivation, manufacturing, testing, dispensary,

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distributor, and transporter). California's existing medicinal framework limits licensees to holding licenses in no more than two categories. By contrast, the adult-use framework does not include prohibitions against holding multiple licenses, except for independent testing. The Bureau proposes to allow vertical integration for medicinal licensees like the adult-use framework.

Ownership & Background Checks. The definition of “owner” varies between California's two sets of laws. The Bureau proposes to clarify “owner” to mean any one of the following: (a) anyone having an aggregate ownership interest of 20 percent or more in the applicant, (b) the CEO, (c) any person participating in the direction, control, or management of the business. In addition, each owner will be subject to background fingerprint checks. With the exception of publicly traded companies, licensees will also be required to disclose the identity of all investors to the licensing authorities. Information submitted to the state licensing authorities will be confidential and will not be subject to disclosure under the California's public records act.

Appellation of Origin. Appellation of origin protections for wine and certain food is typically determined by the federal government. Because the federal government will not establish cannabis appellations, California authorized the creation of appellations but its medicinal and adult-use statutes treat it differently. The Bureau proposes to extend the deadline to 2020 to come up with appellations, which will be governed by California's Department of Food and Agriculture.

Disclaimer:

Possessing, using, distributing, and/or selling marijuana or marijuana-based products is illegal under federal law, regardless of any state law that may decriminalize such activity under certain circumstances. Although federal enforcement policy may at times defer to states' laws and not enforce

conflicting federal laws, interested businesses and individuals should be aware that compliance with state law in no way assures compliance with federal law, and there is a risk that conflicting federal laws may be enforced in the future. No legal advice we give is intended to provide any guidance or assistance in violating federal law.