

01.21.2020

## Florida Issues Emergency Rules and Notice of Rulemaking for MMTCs<sup>1</sup>

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Despite the challenge to the constitutionality of Florida's medical marijuana laws currently pending before the Florida Supreme Court, last month the Florida Department of Health ("DOH") issued emergency rules and notices of proposed rules regarding medical marijuana treatment centers ("MMTCs"). Effective December 10, 2019, the emergency rules provide further regulation for MMTC background screening and renewal applications. The agency also issued notices of proposed rules for the overall regulation of MMTCs, which are subject to the rulemaking process prior to implementation.

The first rule, [64ER19-7](#), requires MMTCs to ensure that all employees, owners, and managers of an MMTC pass a background screening before being allowed to serve such a role at the MMTC. The rule also includes extensive background and record keeping requirements for MMTCs. Under the rule, MMTCs have an ongoing obligation to report certain arrests of any employee, owner, or manager to DOH within 48 hours of becoming aware of the arrest. MMTCs failing to meet these requirements will be subject to discipline.

The second rule, [64ER19-8](#), concerns renewal applications for MMTCs. Each MMTC is required to submit a renewal application, along with a renewal fee. MMTCs initially licensed between July 31, 2017 and October 31, 2017 must submit a renewal application, which must be received by DOH no later than February 28, 2020. After that submission, renewals are biennial. All other MMTCs shall submit a renewal application biennially, which must be received by DOH at least 30 days, but not more than 60 days, before the



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license expires. Renewal applications that are not received by DOH on or before the applicable deadline will not be considered.

For their part, the [noticed proposed rules](#) provide a long-awaited regulatory framework for MMTCs. Agency rulemaking is subject to challenge under Florida's Administrative Procedures Act. If the rules are challenged, implementation could be delayed.

In light of these new regulations, members of the industry should review their personnel background checks, record keeping policies and procedures, and their dates of licensure, and speak with their compliance officer or lawyers to ensure compliance.

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<sup>1</sup> Medical marijuana remains illegal under federal law even in states, such as Florida, that permit medical use of the drug under certain circumstances. This article is published for general information purposes only. It does not constitute legal advice and does not necessarily reflect the opinions of the firm or any of its attorneys or clients. The information contained herein may or may not be correct, complete or current at the time of reading. The content is not to be used or relied upon as a substitute for legal advice or opinions. No reader should act or refrain from acting on the basis of the content of this article without seeking appropriate legal advice. This article does not create or constitute an attorney-client relationship between the authors, Shumaker, Loop & Kendrick, LLP, and the reader.

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