

February 7, 2014

## Nevada Clarifies Medical Marijuana Law and Enacts New Law on Arbitration Agreements

By Roger L Grandgenett and Ethan Thomas

Two notable developments to Nevada employment law took place in 2013. The Nevada Legislature not only clarified some ambiguities in the medical marijuana law as it relates to employers, but also enacted a new arbitration statute that will likely require Nevada employers to revise their current arbitration agreements in order for such agreements to be enforceable.

### Employer Responsibilities Pursuant to Nevada Medical Marijuana Law

Nevada SB 374 clarifies that Nevada's existing medical marijuana law **does not** require an employer to allow medical use of marijuana in the workplace, and does not require that an employer modify job or working conditions that are based upon the employer's reasonable business purposes for those employees who engage in the use of medical marijuana.<sup>1</sup> However, the law specifies that the employer is required to:

make reasonable accommodations for the medical needs of an employee who engages in the medical use of marijuana if the employee holds a valid registry identification card, provided such reasonable accommodation would not:

- (a) Pose a threat of harm or danger to persons or property or impose an undue hardship on the employer; or
- (b) Prohibit the employee from fulfilling any and all of his or her job responsibilities.<sup>2</sup>

In response to the new law, employers should review and revise any policies and procedures concerning medical marijuana. Employers lacking policies that address the new law should consider implementing medical marijuana policies consistent with these requirements. Further, employers should train supervisory, managerial and human resources employees on the law's parameters, *i.e.*, that employers are not required to allow employees to use medical marijuana in the workplace, but may be required to make reasonable accommodations for the medical needs of an employee who engages in the medical use of marijuana.

<sup>1</sup> Nev. Rev. Stat. § 453A.800 (2)-(3).

<sup>2</sup> Nev. Rev. Stat. § 453A.800 (3).

## New Law May Warrant Revisions to Arbitration Agreements

The Legislature also enacted AB 326 which created a new statute entitled "Limitations on agreements which include provision requiring arbitration of disputes arising between parties." The new law states that an agreement that includes a provision requiring a person to submit to arbitration any dispute arising between the parties to the agreement "must include specific authorization for the provision which indicates that the person has affirmatively agreed to the provision."<sup>3</sup> If an agreement includes an arbitration provision but fails to include the "specific authorization," then the arbitration provision is void and unenforceable.<sup>4</sup> The new law specifically excludes collective bargaining agreements from these new provisions.<sup>5</sup> AB 326 specifically states that the new provisions of the act apply only to agreements entered into or renewed on or after October 1, 2013.

It is questionable whether the new Nevada arbitration law would survive challenges on the basis that it is preempted by the Federal Arbitration Act as to most employment agreements. However, employers wishing to comply with the law are encouraged to amend the employment agreements they currently use that contain arbitration provisions, or any arbitration agreements that do not contain authorizations stating specifically that the employee agrees to the arbitration provision. Any new arbitration agreements or arbitration agreements that are being renewed on or after October 1, 2013 would require the specific authorization in order to be enforceable under the law.

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3 Nev. Rev. Stat. § 597.995 (1).

4 Nev. Rev. Stat. § 597.995 (2).

5 Nev. Rev. Stat. § 597.995 (3).