

Colorado Voters Pass Proposition to Allow Regulated Use of Psychedelic Mushrooms

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Roger G. Trim

Denver

Author



Zachary V. Zagger

New York

Author

On November 8, 2022, voters in Colorado [passed a ballot initiative](#) to decriminalize possession of and legalize limited use of psychedelic mushrooms and other plant- and fungi-derived psychedelic drugs by those 21 years of age or older. The passage makes Colorado, which was one of the first states to legalize recreational marijuana, the second state to allow the use of psychedelics behind [Oregon](#).

[Proposition 122](#), or the “Natural Medicine Health Act of 2022,” passed with 53 percent of Colorado voters supporting the initiative to 47 percent who voted against, according to the unofficial results released by Colorado’s secretary of state.

The measure will decriminalize psychedelic mushrooms and by 2024 will allow the supervised use of two of the drugs found in the mushrooms, psilocybin and psilocin, at state-regulated “healing centers.” The initiative further establishes the “Natural Medicine Advisory Board” to explore and evaluate ongoing research into psychedelic drugs and their potential health benefits and make recommendations to the legislature and other state entities.

The initiative comes amid growing scientific research on the potential medical benefits of psychedelic drugs in treating mental health conditions, particularly depression, anxiety, and post-traumatic stress disorder (PTSD).

Impact for Employers

The passage of Proposition 122 could increase employers concerns with employees working under the influence of these drugs. Thus, the proposition may be an impetus for employers to review and revise their drug testing and drug-free workplace policies. The Natural Medicine Health Act states that it should not be construed “to require an employer to permit or accommodate the use, consumption, possession, transfer, display, transportation, or growing of natural medicines in the workplace.” This may allow employers to continue to enforce zero-tolerance policies regarding the use of psychedelics. For comparison, Colorado law does not require employers to accommodate the use of marijuana in the workplace and the Colorado Supreme Court [has held](#) that employees are not protected from discharge by the state’s employment law protections for lawful, off-duty conduct due to marijuana’s continued illegal status under federal law.

Ogletree Deakins will continue to monitor developments with respect to drug legalization initiatives and will post updates on the [Drug Testing](#) and [State Developments](#) blogs as additional information becomes available. Important information for employers is also available via the firm’s [webinar](#) and [podcast](#) programs.

