



Pennsylvania Medical Marijuana Act 16 of 2016

Pennsylvania's new Medical Marijuana Act, providing for patient and caregiver certification, regulations for growers and dispensers, and limited use of marijuana for medical purposes, became law in April of 2016. The new law centers on providing safe access to medical marijuana for patients suffering certain medical conditions. It also includes requirements for employers, but the provisions covering requirements for landlords that were a part of earlier versions of the legislation were removed from the final bill.

Lawful production, possession and use of medical marijuana are specifically detailed in the Act. Only those who have received a permit may grow or dispense medical marijuana, unless they are recognized as a healthcare medical marijuana organization. Possession and use are limited to patients who receive certification from registered practitioners and have valid identification cards from the PA Department of Health, or to caregivers with valid identification cards. Medical marijuana can only be dispensed in the following forms: pill, oil, topical gels, creams and ointments, forms medically appropriate for vaporization or nebulization, tincture or liquid. It may not be dispensed in dry leaf or plant form. Smoking marijuana remains unlawful.

The Act's final language does not contain specific housing-related provisions. But there are a few provisions covering employers. The Act states that no employer may refuse to hire, discharge, threaten or otherwise discriminate or retaliate against an employee regarding compensation, terms or privileges solely because an individual is certified to use medical marijuana. But employers are not obligated to make any accommodation of the use of medical marijuana on the employer's property or premises. The Act further states that its provisions in no way limit an employer's ability to discipline an employee for being under the influence of medical marijuana in the workplace, "or when the employee's conduct falls below the standard of care normally accepted for that position." It remains to be seen how this somewhat nebulous provision will be interpreted. The Act further declares that nothing requires employers to act in a way that would put the employer in violation of federal law. Jobs with federal drug-testing mandates or other safety-sensitive requirements should therefore not be affected.

Job-related activities such as working with certain regulated chemicals, high-voltage electricity or public utilities are prohibited for the medical marijuana user with a blood content of more than 10 nanograms of active tetrahydrocannibis per milliliter of blood in serum. Performing employment duties at heights or in confined spaces such as mining are also prohibited. Employers may bar patients under the influence of medical marijuana from performing tasks, "which the employer deems life-threatening, to either the employee or any of the employees of the employer." Employers may also prohibit a patient from performing duties that could result in a public health or safety risk.

The Act is effective as of May 17, 2016. However, it has not yet been fully implemented, and it will take several months for the Department of Health to roll out regulations covering practitioners, growers and dispensers. The process is expected to take about two years. In preparation, employers in particular have their work cut out for them. Experts are advising all employers to consult their legal counsel about revising employee handbooks, job descriptions, work rules and other communications for employees as necessary.

It is also important to note that marijuana is still classified as a Schedule I controlled substance by the U.S. Drug Enforcement Agency. It is still a federal crime to grow, sell or use marijuana.

A detailed explanation of Pennsylvania's new Medical Marijuana Law can be found on the Governor's website, **What You Need to Know about Medical Marijuana in Pennsylvania.**

<https://www.governor.pa.gov/blog-what-you-need-to-know-about-medical-marijuana-in-pennsylvania/>