

Medical Marijuana's Impact on the Workplace in our Commonwealth OR POT ON THE JOB IN PA

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Does Medical Marijuana have an impact on employers? Uhhh..YEAH!!!

- Drug Testing
- Policies and Procedures
- Federal Gov't Issues
- Criminal Background Checks
- ADA/FMLA/Workers' Comp
- Unemployment Compensation

Pennsylvania is More Like New York than California

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- California
 - Almost anyone can prescribe and almost anyone can dispense to almost anyone with any condition.
- New York
 - Almost no one can prescribe and almost no one can dispense to very few with serious conditions.

When Does This Law Become Effective?

- Signed into law on April 17, 2016
- Full implementation was to take 18-24 months
- <http://www.health.pa.gov>
- <https://www.governor.pa.gov/blog-what-you-need-to-know-about-medical-marijuana-in-pennsylvania/>
- <https://www.mpp.org/states/pennsylvania/>

Who does this law help?

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- Certification by a health care professional that an individual has a serious medical condition.
 - Cancer
 - HIV/AIDS
 - Amyotrophic lateral sclerosis
 - Parkinson's disease
 - Multiple sclerosis

Who does this law help? (cont.)

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- Damage to nervous tissue of the spinal cord with objective neurological indication of intractable spasticity
- Epilepsy
- Ibd
- Neuropathies
- Huntington's disease
- Crohn's disease

Who does this law help? (cont.)

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- PTSD
- Intractable seizures
- Glaucoma
- Sickle cell anemia
- Autism
- Sever chronic or intractable pain of neuropathic origin

What will this law require?

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- Once person is certified, they are provided an ID card, which they can present to a dispensary.

What will this law require?

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- Medication will not be available in cigarette or “joint” form. Only to be dispensed as pills, cream, oil, liquid, tinctures and forms that can be vaporized.

So what difference does this law make to employers?

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- Drug Policies
- Drug Testing
- Management training

So what difference does this law make to employers? (cont.)

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- “no employer may discharge, threaten, refuse to hire or otherwise discriminate or retaliate against an employee regarding an employee’s compensation, terms, conditions, location or privileges solely on the basis of such employee’s status as an individual who is certified to use medical marijuana.”

However...

- “This act shall in no way limit an employer’s ability to discipline an employee for being under the influence of medical marijuana in the workplace or for working while under the influence of medical marijuana when the employee’s conduct falls below the standard of care normally accepted for that position.”

- Nothing in the act “shall require an employer to commit any act that would put the employer or any person acting on its behalf in violation of federal law.”

- There are limitations regarding certain jobs:
 - Cannot operate or be in control of chemicals, high voltage electricity or public utility
 - Cannot work at heights or confined areas
 - Cannot perform duties that are life threatening

The standard for “under the influence”¹⁴ is....

- “10 nanograms of active tetrahydrocannabis per millileter of blood in serum”

*Nanograms per milliliter of THC (ng/mL) vary significantly depending on what fluid is being tested — 10 ng/mL in serum is about the equivalent of about 5 ng/mL in whole blood. While some patients who consume significant amounts of cannabis may test above 10 ng/mL in blood serum many hours after consuming cannabis, most patients — particularly those who use only a small amount of cannabis — will not.
--www.mpp.org (Marijuana Policy Project)

What should employers do to prepare for this law?

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- Make policy decisions
- If you want to drug test, verify that your system will give you the information you need to act
- Consider “suitability to perform essential functions” test.
- Identify safety sensitive positions

What should employers do to prepare for this law?

- Make sure your policies, handbook and procedures are all consistent
- Think through testing protocols
- Train your managers

What should employers do to prepare for this law?

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- Marijuana shows up in employees system after just a single use.
- Some tests are not as accurate as others.
- Blood and saliva show if the employee is under the influence.
- Urinalysis shows if it is in their system.

What should employers do to prepare for this law?

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- Review job descriptions
- Review policies and procedures
- Review safety sensitive positions
- Consult attorney when considering a termination on basis of positive cannabis test

What should employers do to prepare for this law?

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- Think through drug testing policy.
- How will you test them?
- How will you get them to test site?
- Will you suspend them? With or without pay?

Conclusion

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- Keep me on speed dial.

Questions???

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Thank you for attending.

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