



Other Health-Related Topics

Quick Guide to Medical Marijuana

Medical marijuana is being talked about more often, as a way to treat different types of side effects of cancer treatment, such as nausea, pain, and a weak appetite. As concern grows about the use of opioid medications, medical marijuana has also been proposed as an alternative. Medical marijuana can also be used in many forms. Before deciding to use medical marijuana, it is very important to talk about that option with your health care team, and to understand the legal and practical issues discussed in this Quick Guide.

Federal Law

Marijuana (cannabis) was considered a legal medicine in the U.S. from 1850 to 1942. Then, in 1937, Congress passed the Marijuana Tax Act, which made the prescription of cannabis illegal. In 1970, Congress replaced the Marijuana Tax Act with the Comprehensive Drug Abuse Prevention and Control Act.

Title II of this federal law, is referred to as the Controlled Substance Act (CSA), and classified certain drugs into “schedules.” Marijuana is classified as a Schedule I substance, a category which also includes heroin, LSD, and ecstasy. A Schedule I substance is a “drug or other substance with a high potential for abuse, does not have a currently accepted medical use in treatment in the U.S., and has a lack of accepted safety for use.” Because marijuana is in this category, researchers are limited in testing whether or not there are potential risks or benefits in using marijuana. The lack of adequate research makes it difficult to figure out how using medical marijuana may impact your health and if the benefits outweigh the risks. **Under the CSA, it is still illegal to use marijuana, for a medical condition, or recreationally.**

State Laws

Over the last two decades, states have passed laws to legalize possession and use of marijuana, not only for medical purposes, but also for recreational use. As of March 2021, 17 states have legalized recreational marijuana use: AK, AZ, CA, CO, DC, IL, ME, MA, MI, MT, NV, NJ, NM, NY, OR, SD, VT, & WA. Four others, CT, HI, NE, & NC, have decriminalized marijuana, meaning that possession and use is still illegal and may result in misdemeanor charges and monetary fines.

Many states have legalized marijuana for medical use ([TriageCancer.org/state-laws/cancer-related](https://www.triagecancer.org/state-laws/cancer-related)). California was the first state to allow medical marijuana in 1996. Although many states have passed laws around medical marijuana, they vary greatly. For example, some states require patient registry or ID cards, some allow for dispensaries or retail sales, and some only allow use for specific medical conditions, such as epilepsy. Some states do not actually legalize medical marijuana, but allow it to be used as legal defense to criminal possession. And, states are passing new laws frequently. As of Dec. 2020, 37 states have enacted medical marijuana laws: AK, AZ, AR, CA, CO, CT, DE, DC, FL, HI, IL, LA, ME, MD, MA, MI, MN, MS, MO, MT, NV, NH, NJ, NM, NY, ND, OH, OK, OR, PA, RI, SD, UT, VA, VT, WA, and WV.

Is Medical Marijuana Legal?

Even if you live in a state that has legalized medical marijuana or the recreational use of marijuana, it is still illegal to have or use marijuana under federal law. In 2014, Congress passed a law prohibiting the federal government from using its resources to interfere with state medical marijuana laws. While this law has been renewed every year, allowing states to pass medical marijuana laws doesn't completely eliminate the legal risk of using medical marijuana.

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Legal and Practical Challenges

In addition to the direct conflict between federal and state laws, there are some other legal and practical challenges that you should consider when deciding whether or not to use medical marijuana.

1. Lack of quality control

As a patient, you may face issues with access to care, treatment decisions, or quality control. For example, some clinical trials will reject individuals who use illegal drugs. There is also little regulation of the medical marijuana industry. So, you may not be able to determine the potency, quality, or potential contamination of the medical marijuana you are using. Bacteria, fungus, and other dangerous substances have been found in medical marijuana, which could be unhealthy. There is also not enough research to show how medical marijuana might interact with other treatments, such as chemotherapy.

2. Employment issues

The use of medical marijuana may also affect your ability to remain employed or gain employment. Recent court cases have confirmed that under federal law, employers have a right to have a drug-free workplace policy. This means that employees can still be fired if they test positive on a drug test, even if they have a prescription or physician recommendation for the use of medical marijuana. These cases have also confirmed that in some states employers do not have to give employees a reasonable accommodation to allow use of medical marijuana. For more information, see our Quick Guide to Reasonable Accommodations ([TriageHealth.org/quick-guides/reasonable-accommodations](https://www.TriageHealth.org/quick-guides/reasonable-accommodations)).

However, there are some states that require employers to try to accommodate employee use of medical marijuana, off-site and off-duty. This chart shows how states handle accommodations differently (note: these laws can change frequently):

Approach to Accommodation of Medical Marijuana	States
Employers are NOT required to accommodate	AK, AL, CA, CO, DC, FL, GA, HI, MI, MT, ND, NH, NJ, NM, OH, OR, PA, RI, VT, WA
Employers cannot discriminate against or terminate a registered patient (other than a federal employee) unless it causes the employer to violate federal law	AR, AZ, CT, DE, IL, MD, ME, MN, OK, PA, RI, WV
Employers are required to make attempt to accommodate use	MA, NV, NY

As an employee, it is important to understand your employer's policies on drug use. Employers also need to know their legal responsibilities under relevant state laws or they may find themselves in violation of disability laws for not accommodating their employees. If you have questions about your employment rights, you should seek legal advice from a professional in your area. See our Quick Guide to Legal Assistance ([TriageHealth.org/quick-guides/legalassistance](https://www.TriageHealth.org/quick-guides/legalassistance)).

3. Housing issues

The use of medical marijuana may also affect your ability to remain in your housing or find new housing. For example, if you live in an apartment, your landlord may have a zero-tolerance policy, which forbids the use of marijuana or other illegal substances. Because marijuana is still illegal under federal law, these types of requirements may still be allowed in your state.

Whether you are a patient or a health care professional, navigating the legal and practical issues surrounding medical marijuana can be complicated. Visit [TriageHealth.org](https://www.TriageHealth.org) for the latest information about this topic and other health care-related issues.

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