

Medical Marijuana & Employment

for
Missouri Municipal Attorneys' Association - 2019

Presented by
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Medical Marijuana Implications for Employment Decisions



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Medical Marijuana

- Missouri Constitution Article XIV Section 1 – Overview
- Regulations – Department of Health & Human Services
 - medicalmarijuanainfo@health.mo.gov
 - <https://health.mo.gov/safety/medical-marijuana/index.php>



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Employment Specific Issues

- Subsection 7(1)(d) – preserves local communities with protections

7. Additional Provisions.

(1) Nothing in this section permits a person to:

(d) Bring a claim against any employer, former employer, or prospective employer for wrongful discharge, discrimination, or any similar cause of action or remedy, based on the employer, former employer, or prospective employer prohibiting the employee, former employee, or prospective employee from being **under the influence of marijuana** while at work or disciplining the employee or former employee, up to and including termination from employment, for working or attempting to work **while under the influence** of marijuana.

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Employment Specific Issues

- Subsection 7(7) – no workplace use

7. Additional Provisions.

(7) **No** qualifying patient shall **consume** marijuana for medical use **in a public place**, unless provided by law. Violation of this prohibition shall subject the violator to sanctions as provided by general law.

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Employment Specific Issues

- Specific Laws impacted by enactment

- Americans with Disabilities Act as Amended (disability does not include current use of controlled substance); defenses include safety of public and employee;
- Family & Medical Leave Act (physician v. health care provider)
- Omnibus Transportation Employee Testing Act (identifies marijuana as substance for testing)
- Drug Free Workplace Act

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Employment Specific Issues

- Specific Laws impacted by enactment
 - Missouri Human Rights Act (disability discrimination)
 - Missouri Workers' Compensation Act (benefits reduction potential)
 - Affordable Care Act (Obamacare)
 - HIPAA (confidentiality of health information)

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