

Joint Liability Medical Marijuana and Schools

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History



What is it?

- Flowering plant—
 - *cannabis sativa*
- Indigenous to Asia, India, and Mexico
- Produces cannabinoids—tetrahydrocannabinol (THC)—psychoactive ingredient, found in buds and leaves of flowers
- Fibers used for ropes and clothes (hemp)



History

- 6000 B.C.—cannabis seeds used for food in China
- 4000 B.C.—textiles made of hemp used in China
- 2727 B.C.—first recorded medical use in China
- 500 B.C.—cannabis plant introduced to Europe.
- 1200 A.D.—hashish becomes widespread in Persia (Iran) and North Africa
- 1545 A.D.—brought to America from Spain
- 1611 A.D.—grown with tobacco at Jamestown (later replaced by cotton as staple crop)

History

- 1850—listed in the U.S. Pharmacopeia as treatment for various ailments including labor pains, nausea, and rheumatism
- 1930—Federal Bureau of Narcotics established



History

- 1937—Marijuana Tax Act
- 1970—Controlled Substances Act
 - Classified marijuana as Schedule I (no medical value, high abuse rate)
- 1998-1999—Alaska, Washington, and Oregon enact medical marijuana laws.
- 2009—U.S. Attorney General Memorandum
- 2012—Colorado legalizes recreational marijuana



What does it do?

- Short Term
 - Loss of coordination/delayed reactions
 - Increased heart rate
 - Lowered blood pressure
 - Stimulates appetite
 - Distorted perception of time and space
- Long Term
 - Bronchitis, asthma (similar to tobacco use if smoked)
 - Possible psychosis and schizophrenia (youth users—causes or worsens)
 - Withdrawal symptoms for long time users—irritability, sleeplessness, cravings
 - Unknown side effects due to lack of research, particularly with children



Marijuana as Medicine



Qualifying Conditions

- Cancer
- Glaucoma
- HIV/AIDS
- Parkinson’s Disease
- Multiple Sclerosis
- Epilepsy
- Seizures
- Wasting Syndrome
- Crohn’s Disease
- PTSD



Medical Marijuana

Legalized or Effectively Decriminalized		
Alaska (1999) (r-2014)	Arizona (2010)	California (1996)*
Colorado (2000)(r-2012)	Connecticut (2012)	Delaware (2011)
Hawaii (2000)	Illinois (2014)	Maine (1999)
Maryland (2003)	Massachusetts (2012)	Michigan (2008)
Minnesota (2014)	Montana (2004)	Nevada (2000)
New Hampshire (2013)	New Jersey (2010)	New Mexico (2007)
New York (2014)	North Carolina (2015—O)	Oregon (1998) (r-2015)
Rhode Island (2006)	Vermont (2007)	Washington (1998)(r-2012)
D.C. (2009) (r-2014)		

Medical Marijuana

- Pending Legislation/Initiatives
 - Alabama
 - Florida
 - Idaho
 - Iowa
 - Kansas
 - Louisiana
 - Ohio
 - Pennsylvania
 - South Carolina

South Carolina

- Cannabidiol (CBD) Oil permitted for Dravet Syndrome:
 - Non-psychoactive (<1% THC)
 - Horry County—Palmetto Harmony
- Other states permitting only CBD
 - Alabama, Iowa, Kentucky, Mississippi, Tennessee, Utah, Wisconsin



South Carolina

- Pending--Low-THC Cannabis Medical Use (4/16/2015)
 - Less than 1% THC
 - Establishes compassionate use registry (oversight by DHEC)
 - Physician's recommendation (second opinion required if under 18)
 - Creates 4 dispensaries—Upstate, Midlands, Southeast, Northeast
 - Does not provide for protection in the workplace, at school, or any area designated a drug-free zone
 - No presumption of abuse or neglect for use
 - Criminal background check required

South Carolina

- Pending--Medical Marijuana Program Act (H.4037) 4/22/2015
 - Authorizes the palliative use of marijuana by certain individuals with qualifying conditions
 - Managed by DHEC—registration cards issued
 - Qualifying Conditions
 - Cancer
 - Glaucoma
 - HIV/AIDS
 - Hepatitis C
 - Muscular Dystrophy
 - Severe Fibromyalgia
 - Tourette's
 - Parkinson's
 - PTSD

South Carolina

- Medical Marijuana Program Act (H.4037) 4/22/2015

- Allows qualified individuals to lawfully possess:

- 2 ounces of marijuana in leaf form
 - 1 ounce of cannabis oil; or
 - 8 ounces of diluted cannabis oil



- Licensed Grower/Licensed Dispensary

- Application
 - Initial \$5,000 fee
 - Criminal background check
 - Corporations with 100K net worth
 - Annual fees based on size
 - Seed to sale tracking by DHEC



South Carolina

- Medical Marijuana Program Act (H.4037) 4/22/2015

- If registration card revoked, a hearing is available before the Administrative Law Court within 30 days of revocation.

- No one under 18 may be issued registration cards unless:

- Parent/guardian submits medical recommendation;
 - Documentation of risk/benefit to parent/guardian;
 - Parent/guardian consents in writing

South Carolina

- Medical Marijuana Program Act (H.4037) 4/22/2015
 - Does not require accommodation of medical marijuana at workplace;
 - Does not require a “jail, detention center, correctional facility, or other type of penal institution” to allow medical marijuana

South Carolina

- Decriminalization of Possession (H.3117)
 - Sponsors: Pitts, Rutherford, Long, Bamberg, Cobb-Hunter, M.S. McLeod.
 - Less than 1 ounce of marijuana or less than 10 grams of hashish would be punishable only by a civil citation and fines from \$100/\$200-\$1000.
 - Racial disparity and lack of resources cited.



Marijuana in the Workplace

- Americans with Disabilities Act (ADA)
 - Requires employers to provide “reasonable accommodation” for “qualified persons with a disability.”
- Drug Free Workplace Act
 - Requires entities that contract with the federal government to enforce zero-tolerance policies regarding use of illegal drugs in the workplace.

Medical Marijuana in the Workplace

- Generally no protections for MM patients in the workplace.
 - Connecticut, Delaware, District of Columbia, Hawaii, Maine, Minnesota, New Hampshire. Provide for protection from discrimination for patients and caregivers unless required by federal law or required to obtain federal funding (Drug Free Workplace Act). Still allows discipline for being under the influence during work hours.
 - “Good faith belief”
 - Drug testing?
 - Arizona, Delaware, Minnesota—prohibit termination based on positive results.
 - California, Montana, Oregon, Washington—zero tolerance drug policies allowed despite state law.
 - Nevada—employer must attempt to make reasonable accommodations, provided the accommodation would not (1) pose a threat of harm to any person or impose an undue hardship, or (2) prohibit the employee from fulfilling job duties.
 - New York. Being a medical marijuana patient is considered a disability under state law. Certified medical use does not include smoking or use in a public place.

Medical Marijuana and Children

- Concerns
 - MM causes marijuana to be more prevalent in homes.
 - Food products especially dangerous, attractive to young children.
 - Unknown long term side effects—claims of caused or worsened psychosis and schizophrenia in children.

Medical Marijuana and Schools

- Despite state laws, still illegal on federal level
 - Colorado & New Jersey—bills pending allowing students to possess medical marijuana in schools.
 - School staff may not administer. Caregiver must come to school to administer.
 - Still within discretion of individual Districts.

Medical Marijuana and Schools

- What about discipline?
 - Proposed legislation does not grant protection for any patient in the workplace.
 - Can discipline for using medical marijuana or being under the influence at workplace.
 - “Nothing in this article may be construed to require an employer to accommodate the palliative use of marijuana at his place of employment.”
 - Does not specifically mention students, but remember the Drug Free Workplace Act.

Thank you!

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