



MML 2018
SUMMER CONFERENCE



Hot Button Legal Issues

Cannabis and the Impact on Employment

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Hot Button Legal Issues

Cannabis and the Impact on Employment

Cannabis Remains Illegal (Controlled Substances Act)



Many Federal Grants Require a Drug Free Workplace

Many States Allow Cannabis in Small Amounts



Personnel Policy Drug Free Workplace Component and Random Drug Testing

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A scenario to consider:

Employee uses medicinal cannabis with a certificate and oversight by a doctor

- Both ADA and HIPAA may protect both the individual from termination based on their disability and even from revealing the health issue
- But what if the employee operates machinery that could create a danger if they use it while impaired?

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Another scenario:

New employee is subject to a background investigation

- During an interview, the investigator learns of cannabis use either for recreation or for medical purposes
- What can the government do?

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So far, the States that have addressed the issue allowed adherence to the drug free workplace requirements

- Each had a provision in their statutes that affirmed that an employer was not required to accommodate the medical use of marijuana in the workplace
- The focus of the statutes was to decriminalize marijuana use, not to allow it to impact the workplace, override federal law, or interfere with safety in the workplace
- Maryland law does not include this latter affirmation, although likely it would defer to the federal drug free workplace requirements [see Health-General 13-3301 et seq.]

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While Maryland law evolves, review existing policies and decide things like:

- Which positions require absolute abstinence
- What an employee must show to allow medicinal use of cannabis
- Review evaluation procedures and standards to address the issue in a neutral manner
- The policies likely should focus on the ability to perform the job, rather than legal vs illegal distinctions