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Medical Marijuana - An Overview

The term "medical marijuana" refers to the use, possession, and/or cultivation of marijuana for medical purposes. People who are terminally ill, or suffer from painful or long-term symptoms associated with certain diseases, such as epilepsy, AIDS, glaucoma, and cancer, often request medical marijuana as a form of treatment and/or pain relief.

As a general principle, medical marijuana, also known as medicinal cannabis, is no different than standard marijuana. Under the federal Controlled Substances Act, marijuana is classified as a "Schedule I drug", meaning it: 1) has the potential for abuse, 2) has no currently accepted medical use in treatment in the U.S., and 3) has a lack of accepted safety for use of the drug under medical supervision.

As such, there is a growing debate concerning the personal medical use of marijuana and its legality. On one side of the issue, some politicians and law enforcement officials would like to combat [illegal drug use of marijuana](#) and control some of its affects, such as "wide open sale of marijuana under the guise of medical purpose". On the other side, some health advocates and other drug legalization groups would like to legalize the medical use of marijuana, believing that the drug is a valuable aid in the treatment of a wide range of medical conditions.

Medical Marijuana Laws

Medical marijuana laws are constantly changing and vary among geographical location. Both federal and state laws make it a crime to use, grow, sell, or possess marijuana. The federal Supreme Court, for example, has stated that it is illegal to use, sell or possess marijuana, even for medical use (in the 2005 case of [Gonzales v. Raich](#)).

A growing number of states, however, have legalized the use and/or cultivation of marijuana for medical purposes; thereby removing any criminal penalties from doctors who prescribe the drug or from patients who use it within the bounds set by state law. California was the first to legalize medical marijuana in 1996 when it passed Proposition 215, also called the Compassionate Use Act. The law allows the possession and cultivation of marijuana for medical purposes upon a doctor's recommendation.

Other states that have legalized medical marijuana include: Alaska, Colorado, Connecticut, [Hawaii](#) , Maine, Massachusetts, Michigan, [Montana](#) , Nevada, New Jersey, New Mexico, Oregon, Rhode Island, Vermont, and Washington. These state laws typically set the boundaries under which medical marijuana may be recommended, cultivated, possessed and used. For instance, states may require written documentation from a person's doctor affirming that the person suffers from a debilitating condition and might benefit from the medical use of marijuana. Also, states may require people to present this documentation, or "marijuana ID card", prior to an arrest.

Other provisions may include limits on the *type* of conditions, such as HIV and AIDS, and the *amount* of marijuana that a person may possess, use, or grow.

Finally, some states have other specific provisions, such as employee restrictions on the the medical use of marijuana at work and certain ID card requirements and fees.

For a breakdown of specific marijuana laws by state, including punishment for possession, sale and trafficking, click [here](#) . See " [Medical Marijuana Laws by State](#) " for more details about state laws allowing for the medical use of cannabis.

Medical Marijuana Penalties

Penalties for medical marijuana violations may include prison time, fines, or both, depending on the nature of the offense and the state where the occurrence took place. In states that have not legalized medical use of marijuana, the charges are treated as general misdemeanor or felony drug charges.

In states which have decriminalized medical marijuana, penalties in the form of prison or fines may still apply, yet offenses are often treated as minor civil infractions.

For example, punishable circumstances may include:

- Possession over a certain amount (in grams);
- The sale of the drug to others, especially to or from a "minor";
- The cultivation of the drug in states where cultivation is not allowed; and
- Possession of marijuana paraphernalia.

Defenses -- Know Your Legal Rights

Patients who are arrested on drug charges might use their medical status as a defense, before or during trial, to help reduce any penalties. In addition, a patient may show a doctor's recommendation for marijuana to reduce penalties and help avoid jail time or fines altogether. Finally, a patient may want to claim the defense of medical necessity based on the clinical nature of his or her health condition.

It is important to check with a lawyer who specializes in medical marijuana cases to learn of your rights and responsibilities concerning the use and/or charges of medical marijuana.

The Collision of Federal and State Laws -- A Recent Update

There is generally a "tug of war" between the federal laws and state laws concerning medical marijuana. On the one hand, the federal government makes it a crime to cultivate, possess, or use marijuana for any purpose. On the other hand, some states allow the use of marijuana for medical reasons. Generally, in cases where federal laws and state laws collide, federal law prevails, and users of state-authorized medical marijuana may still be arrested and/or prosecuted.

The U.S. government shifted its attention to larger drug trafficking issues when the Obama Administration took over in 2009, with the Department of Justice stating it would not prioritize the enforcement of federal marijuana laws on authorized users of medical marijuana or their caregivers. However, the DOJ resumed its prosecution of medical marijuana providers in 2011 and put pressure on publishers who run ads for medical marijuana dispensaries.

Conclusion

Medical marijuana is a hotly debated issue that affects patients, health care providers, lawyers, and law enforcement officials alike. Because medical marijuana laws vary, it is important to check the specific laws of your particular state. Consulting with a criminal or health care attorney may also help you understand your rights and responsibilities concerning marijuana use or possession.

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