

Medical Marijuana: The Legal Landscape

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Virginia's Medical Marijuana Law

Currently, possession of even a single joint is punishable by:

- * Up to 30 days in jail
- * And a \$500 fine

Virginia's Medical Marijuana Law

However, since 1979, VA law has allowed “[p]ossession or distribution of marijuana for medical purposes.”

Virginia's Medical Marijuana Law

Code of Virginia § 18.2-251.1. A.

No person shall be prosecuted [...] for the possession of marijuana or tetrahydrocannabinol when that possession occurs pursuant to a valid prescription issued by a medical doctor in the course of his professional practice for treatment of cancer or glaucoma.

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Virginia's Medical Marijuana Law

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REJECTED

Virginia's Medical Marijuana Law

Prescription vs.
Recommendation

Federal Law

States' Rights

- * Federal law does not prevent states from removing state criminal penalties for the medical use of marijuana.
- * Nothing in the U.S. Constitution or federal law prohibits states from enacting penalties that differ from federal law.

Federal Law

Conant v. Walters

- * In 2002, a federal circuit court found that the First Amendment right to free speech protects a physician's ability to **recommend** medical marijuana.

Federal Law

Cole Memo, Aug. 2013

- * Eight enforcement priorities (including distribution to minor, diversion to other states, gang activity, etc.)
- * Dept. of Justice **will not interfere** in states with “strong and effective regulatory and enforcement systems” to control cultivation, distribution, sale, and possession of marijuana.

Federal Law

Legislative Victory in Congress

- * In May this year, the House of Representatives voted (219-189) to block the DEA from spending funds to interfere with state medical marijuana programs.

Four Criteria for an Effective Law

- * Patient protection from criminal conviction
- * Realistic access to medical marijuana
- * Variety of marijuana strains containing a variety of cannabinoids
- * Either smoking or vaporizing marijuana allowed

Overview of State MMJ Laws

Since 1996, 23 states and the District of Columbia have enacted effective medical marijuana laws.

The states are: Alaska, Arizona, California, Connecticut, Colorado, Delaware, Hawaii, Illinois, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nevada, New Hampshire, New Jersey, New Mexico, New York, Oregon, Rhode Island, Washington, and Vermont.

Overview of State MMJ Laws

In each state, a doctor's recommendation or certification is required for a patient to qualify.

In all of those laws, except California, Massachusetts, and Maryland's, a patient must have a specific serious medical condition or symptom to qualify.

The laws generally include cancer, AIDS, multiple sclerosis, severe or debilitating pain, and severe nausea.

Overview of State MMJ Laws

The laws require physicians to make constitutionally-protected “recommendations,” rather than “prescriptions.”

All allow for designated caregivers who may assist one or more patients, such as by picking up their medicine.

In all but WA, patients + caregivers can obtain ID card.

Overview of State MMJ Laws

Most do not allow marijuana to be smoked in public or possessed in correctional facilities.

Generally, employers do not have to allow on-site marijuana use or employees working while impaired.

Most specify that insurance is not required to cover the costs of medical marijuana.

Overview of State MMJ Laws

Fifteen of the laws allow some limited home cultivation (usually about 4-6 plants).

Three of those 15 states have “hardship” provisions.

Seventeen states + D.C. allows for state-regulated dispensaries.

Ineffective CBD-only Laws

In 2014, 11 states enacted ineffective “high-CBD” or “CBD-only” laws.

These laws were intended to allow patients with intractable seizure disorders to use certain strains of medical cannabis preparations.

Ineffective CBD-only Laws

How do these laws fall short?

- * Seizure or epilepsy disorders only = leaving most patients behind
- * Little or no THC = undermines entourage effect, fails to help many patients
- * Most have no realistic provisions for access
- * Many use language that conflicts with federal law or policy

Decriminalization

According to the ACLU, in Virginia:

- * **Every 28 minutes**, someone is arrested for possession of marijuana.
- * African-Americans are nearly **3 times** more likely to be arrested than their white neighbors.
- * The state spent **\$67,244,864** enforcing marijuana laws in 2010.

Decriminalization

A conviction or even an arrest record, could lead to a lifetime of harsh collateral consequences.

Areas affect:

- * Education, financial aid
- * Employment, professional licenses
- * Housing

Decriminalization

More than **107 million** Americans have tried marijuana.

But due to discriminatory enforcement, these collateral consequences disproportionately affect minority communities.

Nineteen states have replaced criminal penalties with a fine, similar to a parking ticket.

Thank you!

For more information, please visit:

MarijuanaPolicy.org

