

Federal Laws Pertaining to Marijuana

Office of National Drug Control Policy

<http://www.whitehouse.gov/ondcp/federal-laws-pertaining-to-marijuana>

Marijuana is classified as a Schedule I controlled substance under the Controlled Substances Act (CSA). As a Schedule I drug, marijuana is classified under the following criteria:

- A. The drug has a high potential for abuse.
- B. The drug has no currently accepted medical use in treatment in the United States
- C. There is a lack of accepted safety for use of the drug under medical supervision.

The CSA mandates that the scheduling and approval of drugs, including marijuana, must be done on both legal and scientific bases. The scheduling of a drug must conform to all applicable criteria contained in the CSA if the medicine includes a controlled substance. In June 2011, the Drug Enforcement Administration (DEA) reviewed a petition to reschedule marijuana. Based upon scientific and medical evaluation, as well as scheduling recommendations from the Department of Health and Human Services (HHS), DEA denied the petition to reschedule marijuana. HHS determined that marijuana has a high potential for abuse, no currently accepted medical use in treatment in the U.S., and lacks accepted safety for use under medical supervision.

Regardless of state laws to the contrary, there is no such thing as “medical” marijuana under Federal law. Marijuana continues to be a Schedule I substance meaning that it has no currently accepted medical use and a high potential for abuse.

It is also important to know that the Food and Drug Administration (FDA) has approved medical use of isolated components of the marijuana plant such as delta9-THC, the active ingredient in marijuana and related synthetic compounds. Dronabinol is one synthetically produced compound used in the FDA-approved medicine Marinol (a Schedule III drug). Marinol is legally available by prescription from physicians for patients who suffer from pain and chronic illnesses such as cancer and AIDS. Another FDA-approved medicine, Cesamet, contains the active ingredient Nabilone (a Schedule II drug), which has a chemical structure similar to delta9-THC. And Sativex, an oromucosal spray approved in Canada, the UK, and other parts of Europe for the treatment of multiple sclerosis spasticity and cancer pain. Sativex is currently in late-stage clinical trials with the FDA. It combines delta9-THC and another active ingredient in marijuana, cannabidiol (CBD), and provides therapeutic benefits without the “high” from the drug.

Department of Justice Guidelines:

The Department of Justice (DOJ) issued guidance for Federal prosecutors in states that have enacted laws authorizing the medical use of marijuana under state law. The guidelines explain that it is likely not an efficient use of federal resources to focus enforcement efforts on individuals with serious illnesses who use marijuana as part of a recommended treatment regimen consistent with applicable state law or their individual non-commercial caregiver. However, persons who are in the business of cultivating, selling, or distributing marijuana, and those who knowingly facilitate such activities, are in violation of Federal law, and are subject to Federal enforcement action, including potential prosecution.

The DOJ guidelines do not legalize marijuana. The DOJ guidance explicitly states that marijuana remains illegal under Federal law. Enforcing Federal law against significant traffickers in illegal drugs including marijuana remains a core Department of Justice priority.

Department of Transportation Guidelines:

Following the DOJ guidance to Federal prosecutors, the Department of Transportation (DOT) recently released an Office of Drug and Alcohol Policy Compliance Notice. The DOT Compliance Notice

explicitly reiterated that DOT regulation does not recognize “medical” marijuana under a state law to be a valid medical explanation for a transportation employee’s positive drug test.

Pursuant to DOT regulation, Medical Review Officers will not verify a drug test as negative based upon information that a physician recommended that the transportation employee use marijuana as medicine. It remains unacceptable for any safety-sensitive employee subject to drug testing under the Department of Transportation’s drug testing regulations to use marijuana.

Veterans Administration Guidance:

Media reports have inaccurately characterized the Veterans Administration’s (VA) recent guidance to VA Hospitals regarding marijuana used purportedly as medicine. To be clear, pursuant to Federal law marijuana is not allowed on VA property, and no VA-licensed pharmacy may dispense it, regardless of state law.

As with other Schedule I drugs, the VA Directive clarified that marijuana use for purported medical use or otherwise pursuant to state law, does not preclude a VA patient from receiving VA pain medication or participating in VA pain management treatment. However, it is explicit VHA policy to prohibit VA treatment providers from completing forms seeking recommendations or opinions regarding a Veteran’s participation in a State marijuana program.