



Cannabis Laws Affecting Employers

State Laws and Employer Guidance

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Best Practices and Tips for Employers

This guide generally uses the word cannabis to refer to marijuana because cannabis is the more scientifically accurate name. For HR purposes, however, the terms cannabis and marijuana are interchangeable. Nonetheless, to avoid possible confusion, the state-specific notes below use whichever term the particular law uses.

State laws regarding cannabis change rapidly compared to other employment laws. Consequently, recent changes may not be reflected here. This chart is general HR guidance; employers with additional questions should contact an attorney for a legal opinion as well as their insurance carriers.

Cannabis laws vary from state to state. Multistate employers should review the laws of all states where they have employees.

Cannabis antidiscrimination statutes may contain a protection for an applicant's or employee's status as a medical cannabis cardholder in addition to their status as a patient. Because status as a caregiver does not seem to be a common issue, for purposes of brevity, the chart only references status as a cardholder.

Employers should be aware that other laws (besides the state cannabis law) may implicate employers' ability to regulate employee cannabis use, including but not limited to:

1. Federal laws (e.g., Department of Transportation regulations, the Drug Free Workplace Act);
2. State disability discrimination law;
3. Lawful off-duty conduct law;
4. Religious accommodations;
5. Wrongful termination in violation of public policy; and
6. State drug testing law.

Currently, employers may have a drug policy prohibiting employees from using or working under the influence of cannabis. However, employers should review potential obligations under both the applicable cannabis law and the laws listed above when they apply their policy. If an employee requests an accommodation to use cannabis during work or to work while under the influence of cannabis, employers should consult with an attorney.

From an HR perspective, the risk-tolerant approach is usually to terminate an employee who tests positive for cannabis and deal with a potential lawsuit. In contrast, the risk-averse approach is usually to accommodate off-duty cannabis use (absent undue hardship or direct threat).

Employers should note that municipal cannabis laws, eligibility for unemployment insurance, and covered expenses under workers' compensation laws are outside the scope of this chart.

STATE	RECREATIONAL	MEDICAL	EMPLOYER GUIDANCE
Alabama		X	<ul style="list-style-type: none"> » Employers may have drug policies prohibiting cannabis. » Employers aren't required to accommodate cannabis use under the medical cannabis law or any other state laws.
Alaska	X	X	<ul style="list-style-type: none"> » Employers may have drug policies prohibiting marijuana. » The marijuana laws state that they do not require employers to accommodate medical or recreational use at work. » The state has not specified whether employers are required to accommodate marijuana use under other state laws, such as the state disability discrimination law.
Arizona	X	X	<ul style="list-style-type: none"> » Employers may have drug policies prohibiting marijuana. » The recreational cannabis law states that it does not require employers to allow employees to use cannabis at work. » The recreational cannabis law states that it does not require employers to violate federal law or do anything that would cause them to lose federal funding or a federal license. » The state has not specified whether employers are required to accommodate off-duty recreational cannabis use under other state laws, if any apply. » Employers may not discriminate against medical marijuana users based solely on their status as registered cardholders. » Employers may not discipline or discharge applicants or employees based on a positive drug test unless they use, have, or are impaired by marijuana at work or during work. At least one court has held that a positive test alone cannot prove current impairment. » Exceptions to medical marijuana employment protections are as follows: <ul style="list-style-type: none"> · When the employer would lose a federal license; · When the employer would lose federal money; or · Safety-sensitive positions, which must be designated as such in writing. Although the law is clear that employers may offer an accommodation (e.g., reassignment) to employees in safety-sensitive positions who use medical marijuana off duty, the state has not specified whether employers are required to do so.
Arkansas		X	<ul style="list-style-type: none"> » Employers of nine or more employees may not discriminate against or discipline an applicant or employee based on their status as a medical marijuana patient or caregiver. » Employers that have nine or more employees may not discipline or discharge applicants or employees based on a positive drug test unless they use, have, or are under the influence of marijuana at work or during work. A positive drug test alone cannot prove current impairment, except for certain safety-sensitive positions.

STATE	RECREATIONAL	MEDICAL	EMPLOYER GUIDANCE
California	X	X	<ul style="list-style-type: none"> » Employers may have drug policies prohibiting cannabis. » The cannabis laws state that employers are not required to accommodate medical or recreational use at work. » A state court has held that employers are not required to accommodate off-duty medical use under the state disability discrimination law (the Fair Employment and Housing Act). » A state court has held that discharging an employee for off-duty use does not violate public policy. » The state has not specified whether employers are required to accommodate off-duty cannabis use under other state laws, such as the lawful off-duty conduct law or religious accommodations.
Colorado	X	X	<ul style="list-style-type: none"> » Employers may have drug policies prohibiting marijuana. » The marijuana laws state that employers are not required to accommodate medical or recreational use at work. » A court case held that employers are not required to accommodate off-duty medical use under either the state's lawful off-duty conduct law or the state's disability discrimination law. » The state has not specified whether employers are required to accommodate marijuana use under other state laws, such as the state's religious discrimination laws.
Connecticut	X	X	<ul style="list-style-type: none"> » Recreational cannabis is legal as of July 1, 2021. However, employment provisions of the law don't take effect until July 1, 2022. » Employers may not discriminate against or discipline an applicant or employee based solely on their status as a medical marijuana patient, except when: <ul style="list-style-type: none"> · It would violate a federal law; or · The employer would lose federal funding. <p>Note: A court has held that a federal contractor's required compliance with the Drug Free Workplace Act did not qualify for either exception.</p> » A court has held that a registered patient's protected status includes using medical marijuana off duty. » The medical marijuana law states that employers may prohibit employees from using marijuana during work and from working under the influence of marijuana.
Delaware		X	<ul style="list-style-type: none"> » Employers may not discriminate against or discipline an applicant or employee based solely on their status as a medical marijuana patient. » Employers may not discipline or discharge applicants or employees based on a positive drug test unless they use, have, or are impaired by marijuana at work or during work.

STATE	RECREATIONAL	MEDICAL	EMPLOYER GUIDANCE
Delaware <i>(cont'd)</i>		X	<ul style="list-style-type: none"> » Exceptions to employment protections under the medical marijuana law are when the employer would: <ul style="list-style-type: none"> • Lose federal money; or • Lose a federal license.
District of Columbia	X	X	<ul style="list-style-type: none"> » Employers may have drug policies prohibiting marijuana. » The recreational marijuana law states that employers are not required to accommodate marijuana use at work. » The District has not stated whether employers are required to accommodate marijuana use under other District laws, such as the District's disability discrimination law. » Employers may not test applicants for marijuana until after extending a conditional offer of employment, unless otherwise required by law.
Florida		X	<ul style="list-style-type: none"> » Employers may have drug policies prohibiting marijuana. » The medical marijuana law states that employers are not required to accommodate medical use at work or allow an employee to work under the influence of marijuana. » The medical marijuana law states that it does not entitle employees to sue for wrongful discharge or discrimination, but the state has not specified whether employers are required to accommodate marijuana use under other state laws, such as the state's disability discrimination law.
Georgia		X	<ul style="list-style-type: none"> » Employers may have drug policies prohibiting marijuana. » The medical cannabis law states that employers are not required to accommodate medical use at work. » The medical cannabis law states that it does not require employers to accommodate off-duty use, but the state has not specified whether employers are required to accommodate cannabis use under other state laws, such as the state's disability discrimination law.
Hawaii		X	<ul style="list-style-type: none"> » The medical cannabis law states that employers are not required to accommodate medical use at work. » The state has not specified whether employers are required to accommodate cannabis use under other state laws, such as the state's disability discrimination law.
Idaho			Idaho does not have legal medical or recreational cannabis.

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Illinois	X	X	<ul style="list-style-type: none"> » The recreational and medical cannabis laws state that they do not limit an employer from enforcing a policy concerning drug testing, zero-tolerance, or a drug-free workplace as long as the policy is applied in a nondiscriminatory manner. » Antidiscrimination: The medical cannabis law states that employers may not discriminate against or discipline an applicant or employee based solely on their status as a medical cannabis patient or solely on the basis of a positive drug test. Exceptions are when the employer would: <ul style="list-style-type: none"> • Violate federal law. • Lose a federal contract. • Lose federal funding. » Prohibiting on-the-job impairment: <ul style="list-style-type: none"> • The medical cannabis law states that it does not require an employer to allow an employee to be impaired at work and may discipline an employee for being impaired if the employer has a good faith belief that the employee is impaired or if not doing so would cause the employer to lose a federal contract or funding. • The recreational cannabis law states that it does not require an employer to allow an employee to use or to be impaired or under the influence of cannabis in the workplace, during work, or while on call. <p>Workplace is defined as the employer’s premises, including any building, real property, and parking area under the control of the employer or area used by an employee while in the performance of the employee’s job duties, and vehicles, whether leased, rented, or owned. “Workplace” may be further defined by the employer’s written employment policy, provided that the policy is consistent with the cannabis law regarding employment.</p> <p>On call is defined as the time that an employee is scheduled with at least 24 hours’ notice by their employer to be on standby or otherwise responsible for performing tasks related to their employment, either at the employer’s premises or other previously designated location by their employer or supervisor to perform a work-related task.</p> • If an employer wants to discipline an employee for on-duty impairment, the employer must provide the employee reasonable opportunity to contest the basis of the employer’s conclusion. » Impairment: The recreational and medical cannabis laws state that they allow employers to consider an employee to be impaired or under the influence of cannabis if they have specific, articulable symptoms while working that decrease or lessen their job performance, such as: <ul style="list-style-type: none"> • Symptoms of the employee’s speech, physical dexterity, agility, coordination, or demeanor; • Irrational or unusual behavior; • Negligence or carelessness in operating equipment or machinery; • Disregard for the safety of the employer or others; • Involvement in an accident that results in serious damage to equipment or property;

STATE	RECREATIONAL	MEDICAL	EMPLOYER GUIDANCE
Illinois <i>(cont'd)</i>	X	X	<ul style="list-style-type: none"> • Disruption of a production of manufacturing process; or • Carelessness that results in any injury to the employee or others. <ul style="list-style-type: none"> » Other employee protections: <ul style="list-style-type: none"> • The state's lawful off-duty conduct law excludes recreational cannabis. In other words, the lawful off-duty conduct law should not prevent employers from withdrawing a job offer if an applicant tests positive. • The state has not specified whether employers are required to accommodate cannabis use under other state laws, such as the state disability discrimination law.
Indiana		X	<ul style="list-style-type: none"> » The medical marijuana law does not address employers' rights or obligations. » The state has not specified whether employers are required to accommodate marijuana use under other state laws, such as the state disability discrimination law.
Iowa		X	<ul style="list-style-type: none"> » The medical cannabidiol law states that it does not limit an employer from enforcing a policy concerning drug testing, zero-tolerance, or a drug-free workplace (including prohibiting employees from using marijuana for the purpose of promoting workplace health and safety), as long as the policy complies with Iowa's drug-testing law and all other applicable laws. » The medical cannabidiol law states that employers are not required to accommodate medical use at work. » The medical cannabidiol law states that it does not create liability for employers for doing something the medical cannabidiol law allows, such as enforcing a zero-tolerance drug policy. However, the state has not specified whether employers are required to accommodate marijuana use under other state laws, such as the state's disability discrimination law. » The medical cannabidiol law states that it does not apply to any cannabis-derived investigational product or cannabis-derived product approved as a prescription medication by the federal Food and Drug Administration.
Kansas		X	Kansas does not have legal recreational or medical cannabis, except CBD oil that has no THC.
Kentucky		X	Kentucky does not have legal recreational or medical cannabis, except for clinical trials of CBD oil.
Louisiana		X	<ul style="list-style-type: none"> » The medical marijuana law does not address employers' rights or obligations, except that medical marijuana is not a covered medical expense under the state workers' compensation law. » The state has not specified whether employers are required to accommodate marijuana use under other state laws, such as the state disability discrimination law.

STATE	RECREATIONAL	MEDICAL	EMPLOYER GUIDANCE
Maine	X	X	<ul style="list-style-type: none"> » Employers may prohibit employees from using recreational marijuana at or during work. » Employers may discipline employees for working under the influence of recreational marijuana. » The law previously specifically prohibited employers from disciplining employees for off-duty use, which the Maine Department of Labor interpreted to mean that employers cannot discipline an employee or disqualify an applicant based solely on a positive marijuana test. » Employers may not discriminate against or discipline an applicant or employee based solely on their status as a medical marijuana patient, except when the employer: <ul style="list-style-type: none"> • Would lose federal money; or • Would lose a federal license. » The medical marijuana law states that it does not require employers to allow employees to use marijuana at work or to work while under the influence of marijuana. » The state has not specified whether employers are required to accommodate marijuana use under other state laws, such as the state's religious discrimination laws.
Maryland		X	<ul style="list-style-type: none"> » The medical cannabis law does not address employers' rights or obligations. However, the law states that medical cannabis patients cannot be penalized, disciplined, or denied any right or privilege for using or possessing medical cannabis in compliance with the law. » The state has not specified whether employers are required to accommodate cannabis use under other state laws, such as the state disability discrimination law.
Massachusetts	X	X	<ul style="list-style-type: none"> » The recreational cannabis law states that it does not prevent employers from enforcing their drug policies restricting employees' consumption of cannabis. » The cannabis laws state that employers are not required to accommodate medical or recreational use at work. » A court case held that employers are required to engage in the interactive process under state disability discrimination law regarding potential accommodations for off-duty medical use. » The state has not specified whether employers are required to accommodate cannabis use under other state laws, such as the state's religious discrimination laws.
Michigan	X	X	<ul style="list-style-type: none"> » The marijuana laws state that employers are not required to accommodate medical or recreational use at work. » A court case held that an employer did not violate the medical marijuana law or public policy when it terminated an employee who was a medical marijuana patient when he tested positive for THC from using marijuana off duty. » The state has not specified whether employers are required to accommodate marijuana use under other state laws, such as the state's disability or religious discrimination laws.

STATE	RECREATIONAL	MEDICAL	EMPLOYER GUIDANCE
Minnesota		X	<ul style="list-style-type: none"> » Employers may not discriminate against or discipline an applicant or employee based solely on their status as a medical cannabis patient. » Employers may not discipline or discharge applicants or employees based on a positive drug test unless they use, have, or are impaired by cannabis at work or during work. In addition: <ul style="list-style-type: none"> • A positive drug test alone cannot prove current impairment. • If an employee tests positive for cannabis, they can provide documentation that they are a registered medical cannabis patient as part of their explanation for the positive test result. » Exceptions to disciplinary action by the employer are when the employer: <ul style="list-style-type: none"> • Would violate federal law; • Would lose federal money; or • Would lose a federal license.
Mississippi			Mississippi does not have legal medical or recreational cannabis. (Although voters passed ballot initiative 65 to legalize medical marijuana in November 2020, the Mississippi Supreme Court overturned the ballot initiative in 2021.)
Missouri		X	<ul style="list-style-type: none"> » The medical marijuana law specifies that it does not entitle employees or applicants to sue an employer for prohibiting them from working under the influence of marijuana or disciplining them from working (or trying to work) under the influence of marijuana. » The state has not specified whether employers are required to accommodate marijuana use under other state laws, such as the state's disability discrimination law.
Montana	X	X	<ul style="list-style-type: none"> » The recreational marijuana law states that it does not require employers to allow employees to use marijuana at work. » The recreational marijuana law states that it does not prohibit an employer from disciplining an employee for violating its drug policy or for working under the influence of marijuana. » The recreational marijuana law states that it does not prohibit employers from refusing to hire, discharging, or disciplining an applicant or employee because they violated its drug policy or worked while under the influence of marijuana. » Montana has a lawful off-duty use law that currently protects off-duty medical use and, as of January 1, 2022, protects both medical and recreational use (subject to the exceptions of the lawful off-duty use law). » The state has not specified whether employers are required to accommodate off-duty marijuana use under other state laws, if any apply. » The medical marijuana law specifies that it does not require employers to accommodate the use of marijuana.

STATE	RECREATIONAL	MEDICAL	EMPLOYER GUIDANCE
Montana <i>(cont'd)</i>	X	X	<ul style="list-style-type: none"> » The medical marijuana law specifies that it does not prohibit employers from prohibiting the use of marijuana by contract. » The medical marijuana law specifies that it does not allow lawsuits against employers for wrongful discharge or discrimination (including religious or disability). » A state court has held that employees are not entitled to reasonable accommodation for off-duty medical marijuana use under the state wrongful discharge law or state disability discrimination law. However, the decision did not address the lawful off-duty use law and is not binding on courts and may be subject to change.
Nebraska			Nebraska does not have legal medical or recreational cannabis.
Nevada	X	X	<ul style="list-style-type: none"> » Employers may not test applicants for marijuana, unless they are applying for the following positions: <ul style="list-style-type: none"> · Firefighters; · EMTs; · Those that involve driving and federal or state law requires drug testing; and · Those that the employer determines could endanger other people. » The recreational marijuana law allows employers to enforce policies prohibiting the use or possession of recreational marijuana. » The medical marijuana law states that employers are not required to accommodate medical marijuana use at work. » The medical marijuana law states that employers are required to attempt to make reasonable accommodations for medical marijuana cardholders, unless the accommodation: <ul style="list-style-type: none"> · Poses a threat of harm or danger to people or property; · Causes an undue hardship on the employer; or · Prevents the employee from fulfilling any and all of their job responsibilities. » The state has not specified whether employers are required to accommodate marijuana use under other state laws, such as the state's lawful off-duty conduct law.
New Hampshire		X	<ul style="list-style-type: none"> » The medical cannabis law states that it allows employers to prohibit employees from using cannabis at work or during work, and from working under the influence of cannabis. » The state has not specified whether employers are required to accommodate cannabis use under other state laws, such as the state's disability discrimination law.
New Jersey	X	X	<ul style="list-style-type: none"> » Recreational cannabis is currently legal in the state. » The recreational cannabis law has protections for employees, but they didn't take effect immediately. Once they take effect, employers will be prohibited from the following: <ul style="list-style-type: none"> · Requesting criminal marijuana history;

STATE	RECREATIONAL	MEDICAL	EMPLOYER GUIDANCE
New Jersey <i>(cont'd)</i>	X	X	<ul style="list-style-type: none"> • Making employment decisions based solely on an applicant's or employee's criminal marijuana history; • Discriminating against an employee or applicant because they use cannabis outside of work; or • Disciplining an employee solely for testing positive for THC. <ul style="list-style-type: none"> » Employers may not discriminate against an applicant or employee based solely on their status as a medical cannabis cardholder. » If an applicant or employee tests positive for THC, the employer must provide them written notice of their right to present a legitimate medical explanation for the positive test result or request a retest of the original sample at the applicant's or employee's own expense. The applicant or employee then has three working days to provide their health care practitioner's authorization for medical cannabis or a registry identification card. » Exceptions to these employment protections are: <ul style="list-style-type: none"> • If the employee uses or has cannabis during work; • If the employer would violate federal law; or • If the employer would lose a federal license, a federal contract, or federal funding. » The medical cannabis law states that it allows employers to prohibit employees from using cannabis at or during work. » A court has held that employees can sue employers under the state disability discrimination law for failing to accommodate off-duty medical use. » The state has not specified whether employers have additional obligations under other laws, if any apply.
New Mexico	X	X	<ul style="list-style-type: none"> » The recreational cannabis law states that employers can: <ul style="list-style-type: none"> • Prohibit employees from having, using, or being impaired by cannabis at or during work. • Discipline an employee if they have, use, or are impaired by cannabis at work or during work hours. • Have a written, zero-tolerance policy for cannabis and discipline or terminate an employee who tests positive for cannabis. » The recreational cannabis law states that it doesn't require employers to violate federal law or federal regulations or take action that would make them lose a federal contract or federal funding. » The state has not specified whether employers are required to accommodate cannabis use under other state laws, if any apply. » Employers may not discriminate against or discipline an applicant or employee based on their conduct allowed as a medical cannabis patient.

STATE	RECREATIONAL	MEDICAL	EMPLOYER GUIDANCE
New Mexico <i>(cont'd)</i>	X	X	<ul style="list-style-type: none"> » Employers may discipline an employee for using or being impaired by medical cannabis at or during work. » Exceptions to the employment protections are: <ul style="list-style-type: none"> • When the employer would lose federal money; • When the employer would lose a federal license; and • Safety-sensitive positions, which are defined as a position in which performance by a person under the influence of drugs or alcohol would constitute an immediate or direct threat of injury or death to that person or another. » The state has not specified whether employers have additional obligations under other laws, if any apply.
New York	X	X	<ul style="list-style-type: none"> » Employers may not discriminate against or discipline an applicant or employee based on their lawful off-duty consumption or use of cannabis off of the employer's premises. » Exceptions to these employment protections are where: <ul style="list-style-type: none"> • The employer's action is required by federal or state law or federal or state governmental mandate; • The employee is impaired by cannabis during work (see below); or • The employer would violate a federal law or lose federal funding. » An employee is impaired by cannabis at work if they have "specific articulable symptoms" that either negatively affect their job performance or interfere with the employer's ability to provide a safe workplace. » The medical marijuana law states that it allows employers to prohibit on-duty impairment. » State disability discrimination protections apply to certified medical marijuana patients. » Exceptions to the medical marijuana employment protections are when the employer would: <ul style="list-style-type: none"> • Violate federal law; • Lose a federal contract; or • Lose federal funding. » The state has not specified whether employers have additional obligations under other laws, if any apply. » Employers in New York City may not screen applicants for THC, with some exceptions.
North Carolina		X	North Carolina does not have legal recreational or medical cannabis, except hemp extract with low THC levels for patients with epilepsy.

STATE	RECREATIONAL	MEDICAL	EMPLOYER GUIDANCE
North Dakota		X	<ul style="list-style-type: none"> » The medical marijuana law states that it does not prohibit employers from disciplining employees for having or using marijuana at work or for working under the influence of marijuana. » The state has not specified whether employers are required to accommodate marijuana use under other state laws, such as the state disability discrimination law.
Ohio		X	<ul style="list-style-type: none"> » The medical marijuana law states that it does not require employers to accommodate an employee's medical marijuana use. » The medical marijuana law states that it does not prohibit employers from refusing to hire, discharging, or disciplining an applicant or employee because they use medical marijuana. » The medical marijuana law states that it does not prohibit employers from enforcing a drug-testing policy, a drug-free workplace policy, or a zero-tolerance drug policy. » The medical marijuana law states that it does not allow lawsuits against an employer for refusing to hire, discharging, disciplining, discriminating, or retaliating against someone related to medical marijuana. » The state has not specified whether employers are required to accommodate marijuana use under other state laws, such as the state disability discrimination law.
Oklahoma		X	<ul style="list-style-type: none"> » Employers may not refuse to hire, discipline, discharge, or otherwise penalize an applicant or employee based solely on their status as a medical marijuana patient, except when the employer would: <ul style="list-style-type: none"> • Violate federal law; or • Lose federal funding. » Employers may not refuse to hire, discipline, discharge, or otherwise penalize an applicant or employee based solely on a positive marijuana drug test, except: <ul style="list-style-type: none"> • When the employer would violate federal law; • When the employer would lose federal funding; • When the employee has, uses, or is under the influence of marijuana at or during work; or • For jobs with safety-sensitive duties, as defined by the medical marijuana law. » The medical marijuana law states that it does not require employers to allow employees to use marijuana at or during work. » Employers may otherwise continue to have drug-testing policies in compliance with state drug-testing laws. » The state has not specified whether employers have any additional obligations under other state laws, such as the state's disability discrimination law.

STATE	RECREATIONAL	MEDICAL	EMPLOYER GUIDANCE
Oregon	X	X	<ul style="list-style-type: none"> » Employers are not required to allow employees to use medical marijuana at work. » A court held that employers are not required to accommodate medical marijuana under the state disability discrimination law. » The state has not specified whether employers are required to accommodate marijuana use under other state laws, such as the state religious discrimination law.
Pennsylvania		X	<ul style="list-style-type: none"> » The medical marijuana law prohibits employers from discharging, threatening, refusing to hire, or otherwise discriminating or retaliating against an employee solely based on their status as a medical marijuana patient. » The medical marijuana law states that it does not require employers to allow employees to use medical marijuana at work. » The medical marijuana law states that it does not prohibit employers from disciplining employees for being under the influence of medical marijuana at or during work when the employee's conduct falls below the standard of care normally accepted for that position. » The medical marijuana law states that it allows employers to prohibit employees from performing any duty that could result in a public health or safety risk while under the influence of marijuana. » The medical marijuana law states that it does not require employers to violate federal law. » The state has not specified whether employers have any additional obligations under other state laws, such as the state's disability discrimination law.
Rhode Island		X	<ul style="list-style-type: none"> » Employers may not discriminate against or discipline an applicant or employee based solely on their status as a medical marijuana cardholder, with the following exceptions: <ul style="list-style-type: none"> • The employee uses or has marijuana at work; • The employee is under the influence of marijuana at work; • The employee works under the influence of marijuana when doing so would be considered negligence or professional malpractice, or would jeopardize workplace safety; • The employee operates or physically controls a motor vehicle, equipment, or firearms while under the influence of marijuana; • The employee violates terms of a collective bargaining agreement; • The employer would lose federal funding; or • The employer would lose a federal license. » The medical marijuana law states that it does not require employers to accommodate employees using medical marijuana at work. » The state has not specified whether employers have any additional obligations under other state laws, such as the state's disability discrimination law. <ul style="list-style-type: none"> • The employee operates or physically controls a motor vehicle, equipment, or firearms while under the influence of marijuana;

STATE	RECREATIONAL	MEDICAL	EMPLOYER GUIDANCE
Rhode Island <i>(cont'd)</i>		X	<ul style="list-style-type: none"> • The employee violates terms of a collective bargaining agreement; • The employer would lose federal funding; or • The employer would lose a federal license. <ul style="list-style-type: none"> » The medical marijuana law states that it does not require employers to accommodate employees using medical marijuana at work. » The state has not specified whether employers have any additional obligations under other state laws, such as the state's disability discrimination law.
South Carolina		X	South Carolina does not have legal recreational or medical cannabis, except hemp oil for certain patients.
South Dakota	X	X	<ul style="list-style-type: none"> » Legalized recreational marijuana is effective as of July 1, 2021. As of November 18, 2021, medical cannabis will be available. Note: A state court has held that the ballot initiative, Amendment A, which legalized recreational marijuana, is invalid. An appeal is pending. » The recreational marijuana law states that it does not require employers to allow employees to use marijuana. » The recreational marijuana law states that it does not prevent employers from prohibiting employees from using marijuana. » The medical cannabis law requires employers to accommodate off-duty use by registered cardholders as they would for employees who have a disability who use medication, except when the employer would: <ul style="list-style-type: none"> • Violate federal law; • Lose federal funding; or • Lose a federal license. » The medical cannabis law does not require employers to allow employees to use cannabis at work or to work while under the influence of cannabis. However, employers may not base their determination that an employee is under the influence of cannabis based solely on a positive cannabis drug test. » The state has not specified whether employers have any additional obligations under other state laws, if any apply.
Tennessee		X	Tennessee does not have legal recreational or medical cannabis, except for certain clinical studies and cannabis oils for patients who have seizures.
Texas		X	<ul style="list-style-type: none"> » The medical cannabis law does not address employers' rights or obligations. » The state has not specified whether employers are required to accommodate cannabis use under other state laws, such as the state disability discrimination law.

STATE	RECREATIONAL	MEDICAL	EMPLOYER GUIDANCE
Utah		X	<ul style="list-style-type: none"> » The medical cannabis law states that it does not require employers to accommodate the use of medical cannabis. » The medical cannabis law states that it does not prevent employers from having policies prohibiting applicants or employees from using medical cannabis. » The state has not specified whether employers are required to accommodate cannabis use under other state laws, such as the state disability discrimination law.
Vermont	X	X	<ul style="list-style-type: none"> » The recreational cannabis law states that it does not: <ul style="list-style-type: none"> • Require an employer to allow employees to use or have cannabis at work; • Prevent an employer from having a policy that prohibits the use of cannabis at work; • Create a reason an employee can sue an employer; or • Prevent an employer from prohibiting or regulating cannabis at work. » The medical cannabis law states that it does not require employers to allow employees to use cannabis at work or be under the influence of cannabis at work. » The state has not specified whether employers are required to accommodate cannabis use under other state laws, such as the state disability discrimination law.
Virginia	X	X	<ul style="list-style-type: none"> » Employers may not discharge, discipline, or discriminate against an applicant or employee for using cannabis oil in accordance with their practitioner’s valid, written certification. » Exceptions to the employment protections for medical use are: <ul style="list-style-type: none"> • When an employee is impaired or has cannabis oil during work hours; • When the employer would violate federal law, lose a federal contract, or lose federal funding; • When the employer is a defense industrial base sector employer or prospective employer, as defined by the U.S. Cybersecurity and Infrastructure Security Agency, and the applicant or employee tests positive for THC in excess of 50 ng/ml for a urine test or 10 pg/mg for a hair test. » The recreational marijuana law does not address employers’ rights or obligations, other than making certain changes to the ban-the-marijuana-box law. » The state has not specified whether employers are required to accommodate cannabis use under other state laws, such as the state disability discrimination law.
Washington	X	X	<ul style="list-style-type: none"> » The recreational marijuana law does not address employers’ rights or obligations. » The medical cannabis law states that it does not require employers to allow employees to use medical cannabis at work. » The medical cannabis law states that it allows employers to have drug-free work policies. » The medical cannabis law states that it does not require employers to accommodate medical cannabis if the employer has a drug-free workplace.

STATE	RECREATIONAL	MEDICAL	EMPLOYER GUIDANCE
Washington (<i>cont'd</i>)	X	X	<ul style="list-style-type: none"> » A court case held that an employee cannot sue for wrongful discharge under the medical cannabis law itself or as a violation of public policy. » The state has not specified whether employers are required to accommodate cannabis use under other state laws, such as the state disability discrimination law.
West Virginia		X	<ul style="list-style-type: none"> » Employers may not discriminate against or discipline an applicant or employee based solely on their status as a medical cannabis patient. » The medical cannabis law states that it does not require employers to allow employees to use medical cannabis at work. » The medical cannabis law states that it does not prohibit employers from disciplining employees for being under the influence of medical cannabis at or during work when the employee's conduct falls below the standard of care normally accepted for that position. » The medical cannabis law states that it allows employers to prohibit employees from performing any duty that could result in a public health or safety risk while under the influence of cannabis. » The medical cannabis law states that it does not require employers to violate federal law. » The state has not specified whether employers have any additional obligations under other state laws, such as the state's disability discrimination law.
Wisconsin		X	Wisconsin does not have legal recreational or medical cannabis, except CBD oil with low THC levels. The law does not address employers' rights or obligations.
Wyoming		X	Wyoming does not have legal recreational or medical cannabis, except certain CBD products with low levels of THC. The law does not address employers' rights or obligations.