



LEGAL Q&A

Q Do New Jersey employer's need to reasonably accommodate the use of medical marijuana?

A On July 1, 2010 the New Jersey Compassionate Use Medical Marijuana Act takes effect, which allows for the regulated use of marijuana by patients suffering from debilitating medical conditions. Notably, the law does not require employers to accommodate the medical use of marijuana "in the workplace". There are however a number of issues that have yet to be addressed, including:

- The use of medicinal marijuana before work, during a lunch break, after work and off-duty periods.
- What if a registered marijuana user tests positive for drugs which is contrary to a well established, zero tolerance company policy on drugs and alcohol in the workplace?
- Can an adverse employment decision be made based on that positive drug test?
- How will an employer balance the rights of a registered user under state and federal disability laws against the employer's right to maintain a safe and healthy workplace?

The NJ Dept. of Health and Senior Services is expected to provide guidance on the subject soon. Until then, NJ may look to 13 other states that have a similar law for guidance.



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