

State Medical Marijuana Legislation and the Pharmacist's Role

NCPA supports the dispensing of all controlled and legend medications, including any legal prescriptions for marijuana, through state board-licensed pharmacies in accordance with applicable laws, rules and regulations. On the state level, medical marijuana legislation may raise the following issues that can potentially impact patient access to community pharmacy services:

Role of the community pharmacist – Pharmacists are extensively trained to dispense dangerous, controlled, addictive, and highly regulated substances. As such, pharmacists are uniquely qualified to help patients safely adhere to their prescribed marijuana regimen, identify contraindications and interactions, and discuss dosage form, dose, route of administration, and adverse effects. Allowing patients to obtain medical marijuana without consulting a licensed pharmacist could result in harm to the patient. To ensure patient safety, the pharmacist-patient relationship must be preserved for those patients with legal marijuana prescriptions.

Compliance with federal law – The federal government continues to classify marijuana as a schedule I controlled substance. Drugs listed in schedule I have no currently accepted medical use in treatment and may not be prescribed, administered, or dispensed for medical use.¹ Therefore, under federal law, no individuals, including pharmacists, can legally dispense medical marijuana, even in those states that have passed medical marijuana legislation.

Impact on business practices – Because marijuana remains outlawed under federal law, many financial institutions are unwilling to make their services available to businesses that handle marijuana.² Additionally, contracts with wholesalers, third-party payers, and other business entities often contain clauses prohibiting the contracting pharmacy from violating federal laws. The decision to offer medical marijuana services can lead to unintended consequences for pharmacists and their businesses.

No easy answers – Pharmacy advocates should aim for state legislation that preserves the ability of pharmacists legally to dispense medical marijuana should federal prohibitions be overturned, but which does not place the pharmacist or pharmacy in a position of legal or contractual jeopardy in the meantime.

States That Have Passed Medical Marijuana Legislation

Twenty-nine states and the District of Columbia have passed legislation legalizing marijuana for medical use. Of those, five have established a role for pharmacists in the dispensing process:

- (1) Arkansas requires each marijuana dispensary to appoint a pharmacist consultant;
- (2) Connecticut permits only pharmacists to apply for and obtain a marijuana dispensary license;
- (3) Minnesota permits only pharmacists to give final approval for the distribution of medical marijuana to a patient;
- (4) New York requires a pharmacist to be on the premises and supervise the activities within a marijuana dispensing facility whenever the facility is open or in operation; and
- (5) Pennsylvania requires primary marijuana dispensing facilities to have a physician or pharmacist onsite whenever the facility is open to receive patients and caregivers.³

¹ "Pharmacist's Manual: An Informational Outline of the Controlled Substances Act," Drug Enforcement Administration, at <https://www.deadiversion.usdoj.gov/pubs/manuals/pharm2/index.html>.

² John Bessonette, Jeffrey Taylor, and Tai Aliya, "Key Consideration for Investing in Marijuana Companies," Law 360, May 12, 2015, at <https://www.law360.com/articles/655026>.

³ Ark. Const. amend. 98, § 8; Conn. Gen. Stat. § 21a-408h; Minn. State. 152.29; 10 NYCRR 1004.12; 35 P.S. § 10231.801.