



Medical marijuana in the Florida workplace is a topic surrounded by many questions, confusion and a multitude of opinions. I've been asked questions such as "What do I do if I have an employee that tests positive for medical cannabis but I have a drug-free workplace policy?", "Do I have to accommodate a forklift driver who has a prescription for medical marijuana?" and "What if I have an electrician with a lawful marijuana prescription working on a project at a school with a drug-free campus?".

These are all valid questions and the best I can determine from current research is the definitive answer has yet to be cast in stone. The Florida Judiciary had not ruled on or provided guidance as of the writing of this blog post.

Marijuana may have beneficial medical and pain-relief effects but it also has well-documented negative effects on the central nervous system. Short-term memory problems, difficulty with complex tasks, impaired motor skills, and balance and coordination difficulties can all lead to serious safety issues in the workplace.ⁱ When the workplace is a construction site the dangers are multiplied by the many safety-sensitive positions.

Studies of the duration of impairment show the effects of marijuana may last 24 to 48 hours after usageⁱⁱ. This means that after-hours prescription marijuana usage may create next day safety issues on the jobsite.

As you all know, I'm not an attorney nor do I wish to be one. However, insurance weaves itself through contracts, workers compensation, tort law and employment law at both the state and federal level. As a result many of our clients are sharing their concerns with me and asking for guidance.

The Florida Statute regarding medical marijuana use imposes no legal duty on employers to accommodate on-site marijuana usage.ⁱⁱⁱ Popular opinion is that the Florida Supreme Court will eventually be confronted with a case that challenges this in the not-too-distant future.

The best advice we can give at this time is to look for on-the-job impairment and treat legal marijuana as you would any other prescription medication. Keep in mind it has to be lawful, by prescription and, most importantly, the employee cannot show signs of impairment in the workplace. If impairment is seen on the jobsite you have every right to terminate.

As we move forward with this new statute we will do our best to keep you informed. If you should have further questions please contact Bateman, Gordon & Sands, Inc. at (954) 941-0900.

For more information, go to the [Florida Department of Health Office of Medical Marijuana Use](#)

ⁱ Russel, Phillip B. "Clearing the Smoke: Workplace Safety Issues Clouded by Medical Marijuana." *ABA*. August 1, 2017. https://www.americanbar.org/groups/gpsolo/publications/gpsolo_ereport/2017/august_2017/clearing_smoke_workplace_safety_issues_clouded_medical_marijuana/

ⁱⁱ Russel, Phillip B. "Clearing the Smoke: Workplace Safety Issues Clouded by Medical Marijuana." *ABA*. August 1, 2017. https://www.americanbar.org/groups/gpsolo/publications/gpsolo_ereport/2017/august_2017/clearing_smoke_workplace_safety_issues_clouded_medical_marijuana/

ⁱⁱⁱ Rich, Dan. "The Law: What is Medical Marijuana's Impact on Florida Employment Law?". *The Ledger*. January 26, 2018. <https://www.theledger.com/news/20180125/law-what-is-medical-marijuanas-impact-on-florida-employment-law>

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