



Federal and PA State Policy: Medical and Recreational Marijuana

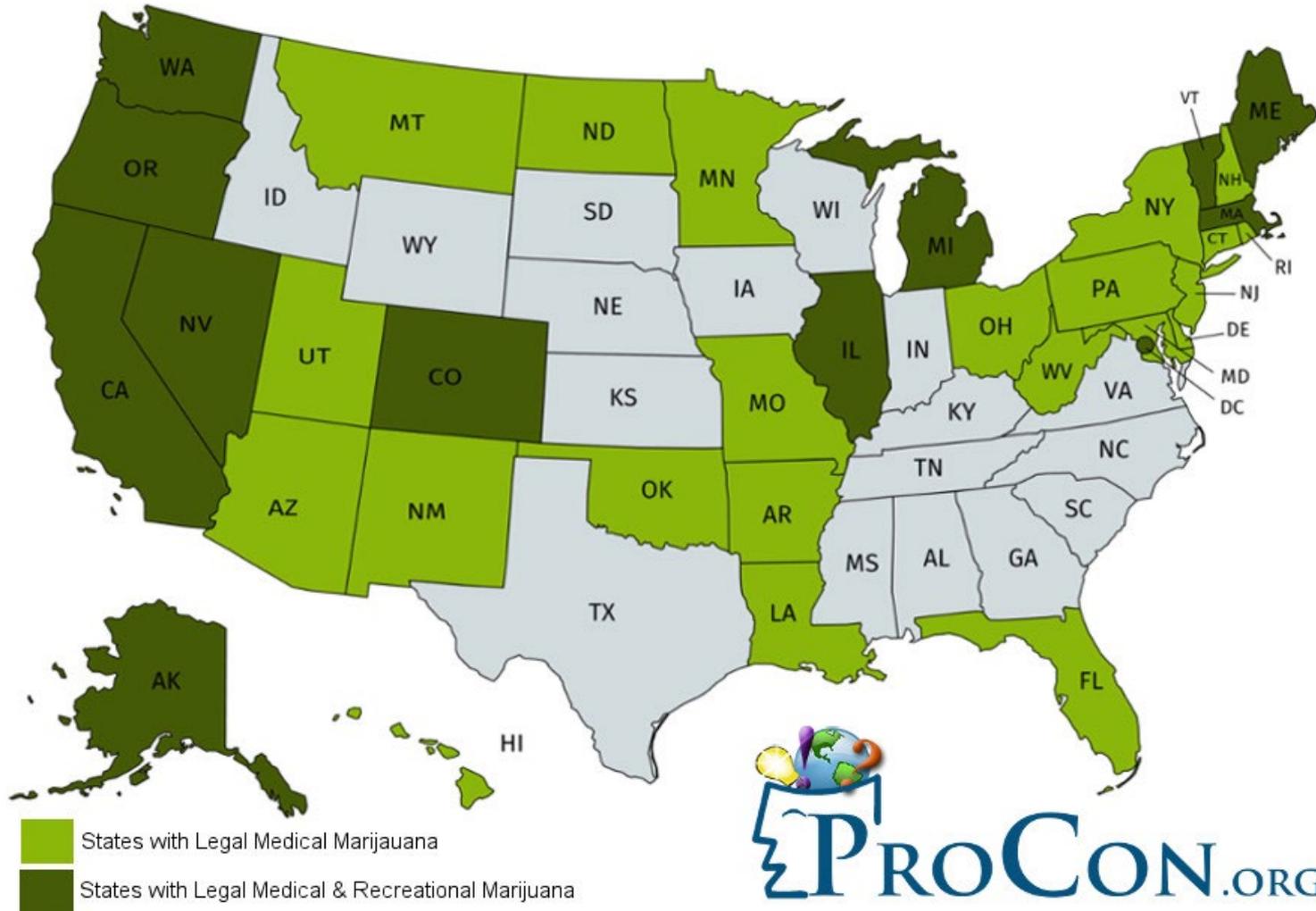
Presented by
Loren L. Speziale, Esq.

September 15, 2020

Federal Law - Marijuana

- Under the federal Controlled Substances Act, it is unlawful to “manufacture, distribute, dispense, or possess any controlled substance except in a manner authorized by the [Act].”
 - Marijuana has “no currently accepted medical use in treatment in the United States.” 21 U.S.C. § 812(b)(1), (c).
 - No exception for medical marijuana.

33 Legal Medical Marijuana States & DC
11 Legal Recreational Marijuana States & DC



PA Residents Using Medical Marijuana

- >153,000 PA residents are registered to participate in medical marijuana program; (up 70,000 from January 2019)
- 23 qualifying conditions; top two are chronic pain and PTSD, anxiety on the rise
- User demographics:
 - ages 35-54 years old make up 61%, (older millennials, Gen X); ages of 55-74 years old make up 31% (Baby Boomers); 86% white; split gender
- According to John J. Collins, the Director of Pennsylvania's Office of Medical Marijuana, the medical marijuana market in Pennsylvania doubled in size between February 2020 and August 2020 (COVID-19)

Source: Pittsburgh City Paper on January 15, 2020; employmentlawwatch.com

PA Law – Medical Marijuana

- Pennsylvania enacted the Medical Marijuana Act in 2016.
- The Act provides that use or possession of medical marijuana is lawful within this Commonwealth so long as the “patient” meets certain requirements.
 - Seventeen serious medical conditions are noted in the Act.

PA Governor Order – March 20, 2020

- Medical Marijuana Coronavirus (COVID-19) Notice temporarily suspended certain provisions of the Medical Marijuana Act due to the pandemic
 - allows for the curbside pick-up of medical marijuana
 - permits remote certifications for new medical marijuana patients
 - suspends the background check requirement for caregivers on renewal certifications; and
 - increases the statutory 30-day supply dispensation limit to a 90-day supply.

PA Law – Recreational Marijuana

- Currently illegal
- Under Pennsylvania marijuana law, possession of up to 30 grams is a misdemeanor, subject to a fine of \$500 and 30 days in jail and possession of more than 30 grams is subject to a maximum fine of \$5,000 and as much as a year in prison.
- On August 25, Governor Wolf called for the legalization of recreational marijuana during his fall budget proposal for tax revenue
 - fund small business grants
 - support restorative justice programs

PA Case Law

- **Commonwealth v. Barr** - smell of marijuana alone does not provide law enforcement with probable cause to conduct a search
- **Palmiter v. Commonwealth Health Systems Inc. et al.** - employers are subject to a private cause of action under the MMA if they violate its anti-discrimination provisions

Recommendations

- Update drug-free workplace policy.
- Update job descriptions for safety-sensitive positions.
- Update drug testing policies.
- Ensure processes are in place to prevent a claim of discrimination, from hiring, current employment and termination.



Thank you!

Loren L. Speziale
lspeziale@grossmcginley.com

Gross McGinley, LLP
33 S Seventh Street
PO Box 4060
Allentown, PA 18105-4060
P: 610.820.5450