



D A V I S

B R O W N

L A W F I R M

MEDICAL MARIJUANA & THE WORKPLACE

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Stuck in the Weeds: Understanding the Basics

- Marijuana v. Medical Cannabidiol (“CBD”)
 - Iowa and Federal law have NOT legalized all forms
 - CBD is not psychoactive
 - Iowa and Federal law heavily restrict the level of THC, the psychoactive compound, in legal products

Marijuana v. Medical Cannabidiol (CBD)

What you might be picturing:



CBD Facts:

- One compound of hundreds found in the cannabis plant
- CBD is not a psychoactive compound
- THC is the compound in cannabis that makes a person feel “stoned”
- Iowa has legalized CBD products, not “medical marijuana” generally

What's Legal?

Iowa Law

- Medical Cannabidiol (CBD)
- Heavily controls who manufactures and distributes legal product
- Has determined what are “qualifying medical conditions”
- CBD products not produced by licensed manufacturers are not legal in the state

Federal Law

- Hemp
 - Must contain less than 0.3% THC
- CBD derived from Hemp is now legal
 - Must contain less than 0.3% THC
- Affect on state law not yet clear

How do Individuals Qualify for Registration Card?

1. Must have a qualifying condition
2. Need to fill out a Patient or Caregiver Registration form
 - Must be signed by healthcare practitioner
 - Must be approved by IDPH
 - Registration cards come from Iowa DOT

Iowa Approved Forms of Medical CBD

- Oral: tablets, capsules, liquids, tinctures
- Topical forms: oils, lotions, creams, gels, and transdermal patches
- Nebulizable
- Suppositories
- NOT allowed: Raw leaf or flowers, vaporizable, or edibles



A Growing Program

Role in Registry	Number of People (3/1/19)	Number of People (8/1/19)
Issued Cards: Number of patients and caregivers with active, DOT-issued registration cards	1,725	3,798
Healthcare Practitioners: Unique number of physicians who have certified patients	581	797

How Does this Affect Employers?

- Recruitment
 - What can be asked at interviews?
- Accommodations
- Termination
 - Can you terminate an individual for legally using CBD products?
- Drug Testing Policies
 - Do your policies need to be updated?

What Should Not be on the Application?

- Basics: No Age, Marital Status/Kids, Citizenship, Physical Descriptions
 - May ask if the applicant can lift a certain weight (essential to the job) “with or without a reasonable accommodation”
- Can you ask if they have a Medical Cannabidiol Registration Card?

Pre-Employment Disability Related Questions

- No disability-related questions before a conditional job offer has been made
- Must reasonably accommodate
 - Can ask what type of accommodation would be needed
- Do not ask about nature/severity of disability

Drug Testing Policies

- Iowa offers employers protection if they have a drug-testing policy established under the law
- Iowa law does not include an anti-discrimination provision protecting medical marijuana cardholders
- Employers should still be cautious

Drug Testing: Prospective Employees

- May drug test prospective employees
- Not considered a “health screening”
 - May be conducted pre- or post- conditional offer
- Must inform prospective employees in job advertisement and at time of interview
- Must have written policy available

What's Coming Next

- Expect ongoing changes to state and federal law
- Be prepared to make further policy and practice changes
- Seek legal advice if you are unsure how to proceed

THANK YOU

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