

# Marijuana Considerations by State

## MINNESOTA

(Updated as of January 2020)

### Legal Status of Marijuana

<b>Medical Marijuana Law</b>	Yes
<b>Recreational Marijuana Law</b>	No
<b>No broad laws legalizing marijuana*</b>	X

*\*Marijuana is either totally illegal, or there may be laws decriminalizing possession, or use of marijuana, or, the state may have a CBD law legalizing THC at a level constituting marijuana-derived CBD.*

**Understanding this report:** The objective of this state report is to identify direct factors that impact employment rights, protections and obligations as they relate to an employee’s use of marijuana.

In some cases, information can be confusing or even appear contradictory. This underscores the necessity of having legal counsel, specialized in marijuana and all related state laws, assist the employer in determining impactors/influences. Further, it is wise to have a professional experienced in drug-responsible workplace programs (i.e., drug-free workplace program [DFWP] consultant) assist in the development of corporate policies and operational practices. (See the NDS article, [Workplace Considerations For Marijuana Use.](#))

The subtitle categories within each state report are standardized. Because the marijuana laws and other laws directly associated to dealing with employee use of marijuana are different in every state, there may be categories within a state’s report that have no information. This indicates there has been no specific information found.

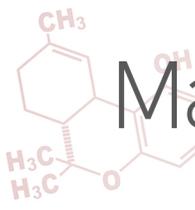
Lastly, where there are quotation marks, the language is directly from published law cited just before the quote. The quoted words are significant, but it will benefit the reader to review the information in context (go to the law) and in relation to other laws (e.g., disability discrimination, workers’ compensation, unemployment law). Additionally, there may be case decisions in a state, that set precedence and clarify or further detail the operational meaning of a law for an employer.

### FROM THE STATE

#### Employer Concerns

#### Significant

- An employer can prohibit possession, use or being under the influence at the workplace.
- In general, Minnesota’s medical marijuana law provides, (2019 Minnesota Statutes 152.22, 152.32), “...a presumption that a patient enrolled in the registry program ... is engaged in the authorized use of medical cannabis.” And that the enrollee’s use, (Subdivision 3 (b)) “...is considered the equivalent of the authorized



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use of any other medication used at the discretion of a physician and does not constitute the use of an illicit substance...”

- Unless it would jeopardize federal benefits, an employer may not discriminate against a person in hiring, termination, or any terms of employment, or otherwise penalize a person who is a verified medical marijuana patient and/or has a positive drug test unless the employee used, possessed, or was impaired on the premises or during work hours.
- Minnesota has a restrictive drug testing law with a plethora of details that directly intersect with the medical marijuana laws and employment protections. An employer who is going to do drug testing needs to comply with this drug testing law.

## Testing

- Minnesota has a restrictive drug testing law with a plethora of details that intricately ties to the state’s medical marijuana law and employee protections.
- An employee may present verification of being a legal medical marijuana patient for the purposes of explanation of a positive marijuana drug test.

## Hiring/Termination

- An employer may not discriminate against a person in hiring, termination, or any terms of employment, or otherwise penalize a person who is a verified medical marijuana patient, has a positive drug test unless the employee used, possessed, or was impaired on the premises or during work hours.

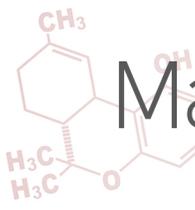
## Discipline

- See **Significant** above.

## Use/Possession

- Does not permit patient use of flowers, but instead only permits extracts and other preparations (e.g., liquids, pills, topical creams or vaping).
- Smoking is prohibited.
- May not consume in public.
- An employer can prohibit possession at the workplace.

**Other Impacting Laws** (e.g., drug testing, workers’ compensation, unemployment)



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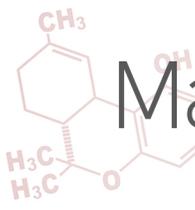
- Minnesota has a restrictive drug testing law with a plethora of details that an employer who is going to do drug testing needs to comply with, including the employer must offer counseling or rehabilitation at his or her expense on a first positive drug test.
- There are definitions throughout Minnesota statutes that are relevant to the employer dealing with employee use of medical marijuana, doing drug testing, and/or attempting to deny unemployment or workers' compensation claims.
  - Minnesota's Department of Labor and Industry adopted a rule that removed marijuana from its "illegal substances" list which may affect reimbursement for medical treatment (i.e., workers' compensation.)
- Apply the [Checklist of Impacting Issues for Employee Use of Marijuana](#) provided by NDS for additional state laws and issues that can relate to and/or impact your operations regarding employee use of marijuana.

## Miscellaneous

### Sources (e.g., Bill Number, Authority)

- Minnesota Stat. Ann. 152.32 – Medical marijuana
- Minnesota Stat. Ann. 181.950 to 957 – Drug testing law
- MSA 176.011 – Drug testing related
- MSA 152.01 – Drug testing related
- Minnesota Stat. Ann. 268.095 – Unemployment related
- Minnesota Stat. Ann. 176.021 – Workers' compensation related

DISCLAIMER: This resource, developed by *Working Partners*®, is meant for educational purposes only. It is provided with the understanding that those involved in the resource are not engaged in rendering legal counsel. An experienced attorney with proven knowledge about these issues should be consulted for legal advice. In addition, an experienced drug-free workplace professional should be relied upon for assistance on operational issues for your company's program.



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