

Medical Marijuana

FOR SENIORS IN
NEW YORK

*Science,
Law,
and Practical
Aspects*

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CHAPTER 1.

Introduction

About the author



Katya Sverdlov is an attorney practicing in New York City. Her practice focuses on estate planning, probate and estate administration, Medicaid planning, elder law, and business succession matters. Katya believes that one can enjoy life more fully when one's affairs are in order, assets are protected, and one's family is taken care of. Katya enjoys helping seniors and their loved ones in planning for long term care, quality of life, autonomy, and asset preservation.

Prior to law school, Katya spent twelve years working for several top Wall Street financial companies. Her experience includes senior positions in investment banking and securities industries, giving Katya a unique ability in dealing with complicated financial matters. As a Chartered Financial Analyst (CFA®), Katya is qualified to work with tax problems, accounting issues, investment portfolios, and other general business matters of her clients.

Katya holds a Bachelor of Science degree in Economics from Cornell University. She earned her Juris Doctor from the Brooklyn Law School, graduating Magna Cum Laude. Katya is a member of the New York State Bar Association, New York City Bar Association, Brooklyn Bar Association, Trusts and Estates Law Section of New York State Bar Association, and the Elder Law Section of New York State Bar Association.

Aside from her dedication to the practice of law, Katya is very active in and committed to her community. Katya teaches Estate Planning 101 at the Brooklyn Lifelong Institute at Brooklyn College, and is a frequent lecturer on issues related to Asset Protection, Estate Planning, Medicaid Planning, Tax Planning, and others. Katya regularly gives presentations on estate planning to senior citizens through the Brooklyn-Bar Leap organization and served as a volunteer in the Kings County Housing Court. Katya is also a prolific writer of blog posts that keep both professionals and consumers abreast of changes in the law and interesting new ideas (www.sverdlovlaw.com). Katya wanted to write this book because, as she talked to her clients, she realized that there are as many misconceptions about medical marijuana as there are about estate planning law. While there are many benefits to medical marijuana, many people are not aware of them, and many more are unclear on its cost, legality, and obtainment. Katya hopes that the information in this book will guide her clients in making sound personal decisions and help them and others lead a better, healthier life.

Changing laws and research

This book was written in October 2018. If you are reading this even several months later, remember that the laws and science of medical marijuana are in constant flux.

In science, more research is being done across the world. New properties of medical marijuana are being tested and their effects (both positive and negative) are measured. Therefore, new conditions may be found to be affected by medical marijuana. At the same time, more side effects may also be found. Please talk to your medical provider prior to embarking on a new course of medical treatment.



In law, both federal laws and state laws may change rapidly. New York legislature is currently considering legalizing recreational use of marijuana (similar to many other states in the United States). Simultaneously, authorities are becoming harsher on both doctors and distributors that are seen to abuse prescription drugs. This book is meant to be used as reference only. As a result, please do not take anything you read in this book as specific legal or medical advice.

This information applies to New York State only

The information in this book applies to New York State only. Every state has its own rules and regulations regarding medical and recreational marijuana. As a result, please do not use the information in this book as a guide for other states.

Legal Disclaimer

Hiring an attorney, consulting a doctor, or starting a treatment plan are important decisions which should not be based solely on literature or advertising. The information you obtain in this book is not, nor is it intended to be, legal advice. You should consult an attorney for advice regarding your individual situation. However, simply contacting an attorney does not create an attorney-client relationship. Please do not send any confidential information to us until such time as an attorney-client relationship has been established.

In addition, the information in this book is not intended to treat any medical condition. For specific advice on whether medical marijuana is appropriate for you, please contact a physician.

CHAPTER 2.

Current Science on Medical Marijuana and How it Helps Seniors

What is Medical Marijuana?



Medical marijuana refers to using the whole marijuana plant or its chemical extracts to treat symptoms of illness and other conditions. It is the same product that is used for recreational purposes, but it is intended for medical purposes, typically consumed through methods other than smoking. To date, the U.S. Food and Drug Administration (FDA) has not recognized or approved the marijuana plant as medicine.

There are over 100 different chemicals called cannabinoids in the marijuana plant, and research is ongoing to determine the therapeutic benefits of more of them. The two main compounds currently used in medical marijuana are delta-9-tetrahydrocannabinol (THC) and cannabidiol (CBD).

- **THC** is the chemical that is responsible for most of marijuana’s psychological effects. This is marijuana’s main mind-altering ingredient that makes you feel “high.” THC binds to the body’s own cannabinoid receptors to affect memory, pleasure, movement, thinking, concentration, coordination, and sensory and time perception. THC also acts by stimulating cells in the brain to release dopamine, creating euphoria. Often consumed by smoking marijuana, THC is also available in oils, edibles, tinctures, and capsules.

Even though the FDA does not recognize the marijuana plant as medicine, there are two FDA-approved medications which contain THC: Marinol and Cesamet. Sold in pill form, they are used to treat nausea caused by chemotherapy and to increase appetite in patients with extreme weight loss caused by AIDS.

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- **CBD** is a chemical that binds very weakly, if at all, to the body’s cannabinoid receptors. It can even interfere with the binding of THC to receptors and thus dampen THC’s psychoactive effects. Therefore, CBD does not make you “high.” CBD is found primarily in extractions from the hemp plant. It’s mostly sold in gels, gummies, oils, supplements, and extracts.

In June 2018, the FDA approved Epidiolex, an oral solution for the treatment of seizures associated with two rare and severe forms of epilepsy, Lennox-Gastaut syndrome and Dravet syndrome, in patients two years of age and older. The active ingredient in Epidiolex is CBD. This is the first FDA-approved drug that contains a purified drug substance derived from marijuana.

Specific Conditions that Affect Seniors Where Medical Marijuana May Help

There is a growing body of evidence that medical marijuana has health benefits. Even though research is now only beginning, early studies have shown that medical cannabis can help with a wide variety of ailments.

Seniors age 65 and older are currently the fastest growing demographic of cannabis users. The vast majority are using it for treatment of medical ailments. According to a 2018 study, 9 out of 10 seniors who used medical marijuana would recommend it to others.



Some of the conditions that medical marijuana is currently being used for include:

- **Cancer.** One of the primary uses of medical marijuana is help for cancer patients who are undergoing chemotherapy. Smoking marijuana has been shown to help with nausea and vomiting, ease the pain of neurological damage, and improve appetite.

The FDA has already approved two THC-infused oral pills, Marinol and Cesamet, to help patients with severe nausea.

There are several current studies underway to determine if marijuana can help treat and reduce cancerous tumors.

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- **Alzheimer's Disease.** Medical marijuana is used to help with symptoms of depression and to improve appetite in patients with Alzheimer's disease. In addition, recent research has shown that micro-doses of THC help to slow the advancement of beta-amyloids, clumps of protein that are one of the leading signs of the presence of Alzheimer's.

- **General and Chronic Pain.** Medical marijuana has been shown to relieve pain from arthritis, nerve damage, and chronic illnesses. Recent research from Israel has shown that THC exerts a beneficial effect on proven chronic nerve pain. Many doctors prescribe medical marijuana now as an alternative to opioids, as there are now more than 40,000 deaths a year from overdoses of prescription opioids yet there have been no reported deaths so far from an overdose of medical marijuana. Furthermore, recent studies have shown that states with medical marijuana programs have lower rates of opioid overdose deaths than other states.

The dosage of administered THC has been shown to be extremely important, as high doses may actually worsen the pain, but low doses relieve the pain.

Some pain conditions (i.e. nerve pain) are more susceptible to being treated by medical marijuana than others (i.e. fibromyalgia).

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- **Anxiety and Other Mental Health Disorders.** Some studies have shown that CBD can help treat several mental health disorders, including obsessive compulsive disorder (OCD), post-traumatic stress disorder (PTSD), panic attacks, moderate depression, general anxiety, and addiction to prescription drugs. CBD helps with these disorders by stimulating the production of serotonin in the brain, similar to other anti-anxiety medications, such as Zoloft, but without the acclimation period or side effects.

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- **Sleep Disorders.** Sleep disorders include sleep apnea (a condition where breathing is interrupted for 10-30 seconds at a time), insomnia, restless leg syndrome, and others. Medical marijuana is now being frequently prescribed as an alternative to other prescription sleep drugs, as it is non-addictive and very difficult to overdose. Some doctors claim that cannabis restores a person's natural sleep cycle.



- **Eating Disorders.** Loss of appetite and eating disorders are very common among seniors. Almost 80% of deaths in the United States due to anorexia occur amongst the elderly. Medical marijuana stimulates appetite by stimulating the endocannabinoid system, underutilized in patients with anorexia and bulimia, which helps the brain perceive food as a reward again.

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- **Glaucoma.** Glaucoma is caused by a buildup of fluid in the eyeballs, resulting in an increase in pressure that leads to nerve damage. It is the leading cause of blindness in people over the age of 60. To treat it, doctors prescribe eye drops that relieve the pressure, but these are expensive and have to be applied many times throughout the day. Medical marijuana has been shown to relieve pressure in the eyes for hours at a time.

Whoopi Goldberg is currently one of the biggest proponents of cannabis for glaucoma and has even founded a new line of medical marijuana products designed especially for women.

- **Multiple Sclerosis (MS).** Symptoms of MS include muscle spasms, gastrointestinal distress, and pain. Studies of people who received oral cannabis extract compared to ones taking a placebo reported that muscle stiffness improved by almost twofold in the group taking cannabis compared to the placebo. Improvements were also noted in pain perception, muscle spasms, and sleep quality.
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- **May (Possibly) Boost Brain Power in Humans.** Studies conducted on mice have shown that elder mice who have been introduced to THC performed better on cognition tests than younger mice. More research on this issue is needed before the findings can be extended to human subjects.
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- **Inflammation, including Crohn's Disease.** Chronic inflammation has been shown to be associated with multiple current diseases. Recent studies have shown both CBD and THC to help reduce inflammation associated with several illnesses. In addition, both CBD and THC reduced both the production and release of pro-inflammatory cytokines.

Research and use in the United States and elsewhere



Given how recent and underfunded most of the research on the effects of medical marijuana is, there are currently limited studies on the type, strain, dosage, and frequency of THC or CBD that a person should take for a specific illness or purpose. Furthermore, there are very few studies on the interaction of CBD and THC with other pharmaceutical drugs. Finally, there are almost no studies on long term effects of medical marijuana, as this is a growing and developing field. As a result, any new medications that you take should be closely monitored by your doctor.

RESEARCH IN THE UNITED STATES

Currently, there are serious obstacles to studying the effectiveness of medical marijuana in the United States. The Drug Enforcement Agency (DEA) continues to list marijuana as a Schedule I drug, meaning that it has no known medical use and a high potential for abuse, making cannabis similarly controlled to cocaine, LSD, and methamphetamines. Therefore, it is very difficult for universities to conduct long term studies on the use of medical marijuana and to get funding from the government, as researchers must first obtain approval from the FDA, DEA, and the National Institute on Drug Abuse.

WORLD RESEARCH

World research on the usefulness of medical marijuana has been active and ongoing for the past decade. Currently, countries that are leading the research on the use of medical marijuana are Israel, the U.K., Canada, Spain, Czech Republic, Uruguay, and the Netherlands.



Israel has been at the forefront of medical marijuana research for many years, as Israeli chemist Raphael Mechoulam is credited with discovering THC. He also discovered the endocannabinoid system, the largest receptor system in the human body, and found that the human brain produces its own cannabinoids — compounds that stimulate the body's receptor system. His research has legitimized the study of medical marijuana for scientists across the world. Israel is currently the world leader in clinical trials and testing of medical marijuana.

USE AND LEGALIZATION

United States

Despite being classified as a Schedule I drug, the usefulness of medical marijuana becomes more obvious as more research becomes available. As of 2018, 31 states plus the District of Columbia have legalized some form of medical marijuana. Of these, 9 states plus the District of Columbia have legalized both medical and recreational use of marijuana.

New York currently permits the use of medical marijuana only, although for the past several years there have been extensive discussions about legalization of recreational use.

A survey by Quinnipiac University in April 2018 found overwhelming support in the U.S. for medical cannabis legalization, with 93% approval.

Other Countries

Countries that currently permit the use of marijuana only for medicinal purposes include Israel, Poland, Norway, Germany, Italy, Greece, Slovenia, Romania, Australia, Argentina (provides medical marijuana to qualifying patients for free), Macedonia, Puerto Rico, France, Czech Republic, and Zimbabwe.

Countries that currently permit the use of marijuana for both medicinal and recreational purposes include Canada, Uruguay, Jamaica, Chile, Colombia, Netherlands, and Spain. However, despite full legalization, marijuana remains regulated and there are usually limits on the amount of marijuana one may possess and grow.

CHAPTER 3.

Current laws in New York State; or, how to obtain medical cannabis legally

**Only medical cannabis is permitted,
no recreational use allowed so far**

New York State is one of currently 31 states where use of medical marijuana is permitted. This is a fairly recent development – the dispensing of medical marijuana in New York only began in January 2016. There are currently 9 states that permit recreational use of marijuana. New York is NOT one of them, although since 2013, many legislators have been trying to legalize recreational use and there has been a lot of progress made on this issue (see Chapter 5 below).



The Department of Health keeps very careful track of the people participating in the program and the medicine that is sold. As of October 2, 2018, there were 1,927 Registered Practitioners and 74,417 Certified Patients. This number is growing rapidly: as of August 8, 2017, there were only 1,155 Registered Practitioners and 26,561 Certified Patients participating in the program.

Currently, the only legal way for a person to receive medical marijuana in New York State is by:

- 1. going to a Registered Practitioner,**
- 2. having a qualifying condition and**
- 3. purchasing the product from a registered dispensary.**

Registered Practitioners: who are they and where to find them

In order to obtain medical marijuana in New York, one must first visit a Registered Practitioner.



WHO CAN BECOME A REGISTERED PRACTITIONER?

Only those medical practitioners who are certified and registered with the New York State Department of Health (DOH) Medical Marijuana Program may prescribe it to patients. Medical practitioners who may register include:

- Physicians;
- Nurse practitioners;
- Physician assistants who are under the supervision of a physician registered under the Medical Marijuana Program.

To become a Registered Practitioner, the practitioner must:

- Be qualified to treat patients with one or more of the qualifying conditions (see below)
- Be licensed, in good standing, and practicing in New York
- Complete a 2-4 hour course on medical marijuana approved by the Commissioner
- Apply for and be granted a registration by the Commissioner.

WHERE CAN YOU FIND A REGISTERED PRACTITIONER?

First, ask your current medical provider if they are a Registered Practitioner or if they would consider becoming one. You may be surprised to hear the answer. Unfortunately, many doctors still do not want to get involved in this area and therefore may not be able to help. Medical marijuana remains a Schedule I drug and many practitioners are nervous about recommending it. Furthermore, some practitioners are reluctant to recommend it because of the limited research in the United States.

Second, go to: https://www.health.ny.gov/regulations/medical_marijuana/practitioner/public_list.htm. This is a list of practitioners who are registered with the DOH to certify patients for medical marijuana. This list is not complete, and includes only those practitioners who have consented to be publicly listed on the DOH's public website. There are other practitioners who are keeping their registration private.

Does the Registered Practitioner write a prescription?

A Registered Practitioner **cannot** write a prescription for medical marijuana, because it remains a Schedule I substance, and there is a federal prohibition on prescribing Schedule I substances. He or she may only make a **recommendation** about medical marijuana use for a particular qualifying medical condition.

What are the qualifying conditions that make you eligible for medical marijuana?

PROPER DIAGNOSIS.

To be eligible for a certification to obtain medical marijuana, a patient must be diagnosed with a qualifying condition. The Department of Health issues a list of these qualifying severe, debilitating, or life-threatening conditions and may add additional conditions in the future. As of the date of this writing, the list of qualifying conditions is limited to:

- Cancer
- Positive status for either HIV or AIDS
- Amyotrophic lateral sclerosis (ALS) – Lou Gehrig’s Disease
- Parkinson’s disease
- Multiple sclerosis (MS)
- Damage to the nervous tissue of the spinal cord with objective neurological indication of intractable spasticity
- Epilepsy
- Inflammatory bowel disease
- Neuropathies
- Huntington’s disease
- Any severe debilitating pain
- Post-traumatic stress disorder (PTSD)



NECESSARY SYMPTOMS.

A patient must also exhibit a condition, symptom, or complication associated with one of the conditions above. The Department of Health issues a list of these symptoms and may add additional symptoms in the future. As of the date of this writing, the list is limited to:

- Cachexia or wasting syndrome
- Severe or chronic pain resulting in substantial limitation of function
- Severe nausea
- Seizures
- Severe or persistent muscle spasms

Registering with the Department of Health as a Certified Patient

To obtain a medical marijuana card, you have to apply and register with the Department of Health as a certified patient. Your Registered Practitioner should assist you in filling out the required paperwork.

- 1. You need to be a resident of New York or be receiving care and treatment in New York.** Proof of residency documents include:

A government issued identification to prove that you are a resident

If you cannot get a government-issued identification, then a recent utility bill or a lease which shows your name and New York address

For non-New York residents, a government issued identification that shows a permanent address and proof of temporary residence in New York State

- 2. You need a certification issued by your Registered Practitioner.**

In order to issue a certification for you, your Registered Practitioner must demonstrate and state to the Department of Health that he/she:

- Is caring for the patient in relation to the patient's serious condition
- Is qualified by training or experience to treat the serious condition
- Believes that, in their professional opinion and review of past treatments, the patient is likely to receive therapeutic or palliative benefit from the primary or adjunctive treatment with medical marijuana for the serious condition, and
- Made note of recommendations and limitations in the use of the approved medical marijuana product.

Where to buy your medical marijuana



Once you receive your Registry Identification card and a recommendation for medical marijuana from your Registered Practitioner, you must go to a registered dispensing facility to buy the product. At the moment, as you can imagine, your neighborhood pharmacy is not selling medical marijuana products.

Instead, you have to visit a dispensing facility that is operated by one of 10 Registered Organizations in New York. At the time of this writing, here is the most recent list of the Registered Organizations and the addresses of their dispensing facilities:

https://www.health.ny.gov/regulations/medical_marijuana/application/selected_applicants.htm

More dispensing facilities are being planned daily. Check this link often to see if a new dispensing facility has opened closer to your home.

Different forms of medical marijuana that you can buy

New York medical marijuana regulation explicitly prohibits the smoking of cannabis as a delivery method. Furthermore, regulation prohibits patients from growing and cultivating cannabis on their own.

Instead, medical marijuana may be delivered in multiple other forms. These include:

- Topicals such as ointments, creams, lotions and patches;
- Tinctures and oils;
- Vaporization pens;
- Solid and semi-solid products, including food, chewable and effervescent capsules, tablets and lozenges; and
- Certain non-smokable forms of ground plant material.



When you come to a dispensary, you must bring your registry ID card and your certification from your Registered Provider. Different facilities may offer different products.

Depending on your condition, your doctor may recommend a particular method of cannabis delivery, such as an ointment or an oil. Alternatively, a pharmacist in a facility may discuss with you the most appropriate medication for you. Remember, it may take several iterations of the product to find the most appropriate one that works for your condition.

The maximum amount that you will be able to receive is a 30 day supply of your product. New York regulations prohibit anyone from receiving a larger amount at one time.

CHAPTER 4.

Current costs of medical marijuana in New York

Is it covered by insurance?

One of the biggest downsides of medical cannabis is that health insurance companies are NOT covering it (yet). At this point, neither Medicare, Medicaid, nor any of the private insurance companies will pay for it.

People often ask, if the doctor is prescribing it, doesn't my health insurance company have to pay for it? The answer is no, because medical cannabis is currently (1) not approved by the FDA as a medicine and (2) according to the DEA, marijuana is still classified as a Schedule I drug. Therefore, your doctor is not allowed to "prescribe" it, and can only recommend its use.

Therefore, your out of pocket costs on medical marijuana products will not count toward your annual deductible under Medicare Part B or Medicare Prescription Drug Plan. Until medical marijuana is removed from the list of Schedule I substances, it is unlikely that any insurance companies will pay for it.

While health insurers are now required to pay for an office visit that is related to medical marijuana, many Registered Practitioners who recommend medical marijuana will not accept insurance payments and will require you to pay a \$250-\$300 for a visit. This visit will include the doctor filling out necessary forms to register you with the State as a Certified Patient.



Actual cost of medical marijuana

Different dispensaries will have different prices for various products. Prices are regulated and approved by New York State. The Department of Health reviews accurate manufacturing, advertising, and distribution costs for each registered dispensary, and sets a maximum price per dose. Dispensaries may charge any price at or below the approved level.

There is currently no publicly available information on prices. Anecdotally, most patients pay between \$100 to \$300 a month, although some patients' costs can be as high as \$1,000 a month.

IF YOU CANNOT PAY OUT OF POCKET:

Your doctor may legally prescribe (and have insurance cover) one of three legal, FDA approved alternatives:

- **Dronabinol (Marinol):** FDA approved medicine to relieve nausea and vomiting caused by chemotherapy, and to relieve pain and spasticity in people with multiple sclerosis. Contains THC.

- **Nabilone (Cesamet):** FDA approved medicine to relieve nausea and vomiting caused by chemotherapy, to relieve pain and spasticity in people with multiple sclerosis, and to improve appetite in people who have AIDS. Contains THC.

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- **Epidiolex:** oral solution for the treatment of seizures associated with two rare and severe forms of epilepsy, Lennox-Gastaut syndrome and Dravet syndrome. Contains CBD.

However, clearly, these three medicines are only appropriate for a limited number of patients.



CHAPTER 5.

Legislative Developments and Policy

In January 2018, Governor Cuomo called for a multi-agency assessment of the possible impact of legalizing recreational use of marijuana in New York State. The assessment reviewed the benefits and risks of legalizing marijuana on health, criminal justice, public safety, and economic and educational systems. Legalization was compared to maintaining the status quo, where possession of marijuana for recreational use remains a criminal offense.



In July 2018, the assessment was issued. The study included the following findings:

- Legalizing and regulating marijuana will reduce health risks to consumers. Marijuana potency can vary greatly based on the strain of the plant, the way it is grown, the part of the plant that is used, how it is stored and how it is consumed. A regulated market will enable products to be tested and labeled, insuring quality control.
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- Legalizing marijuana may reduce opioid deaths and opioid prescriptions in the State of New York. Marijuana has been shown to be a safe and effective alternative to opioid pain treatment.
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- Marijuana has both health benefits and risks. In general, the risks are lower than those associated with alcohol, tobacco, and illegal drugs.
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- Legalization is unlikely to lead to increased adult use (based on studies conducted in other states).
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- Marijuana may have negative effects on mental health, especially in adolescents. In addition, some percentage of users develop an addiction. As a result, more resources need to be devoted to mental health professionals.
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- Marijuana criminalization disproportionately affects racial and ethnic minority groups. Legalization will likely reduce the disproportionate criminalization and incarceration of members of those groups.
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- Legalization of marijuana will create jobs in the State of New York and will create new State revenues. Furthermore, it will lead to savings in police, court, and prison costs.

The overall recommendation was that the positive effects of legalizing and regulating marijuana outweigh the potential negative impacts.

On August 2, 2018, Governor Cuomo appointed a workgroup to draft legislation for a regulated adult-use marijuana program in New York State. The legislature will consider the proposed bill in the upcoming session.

On August 30, 2018, Governor Cuomo announced a series of listening sessions on regulated marijuana. The purpose of these sessions is to gather input and advice from community members on the logistics and implementation of a regulated legalized marijuana program in New York State.



On September 1, 2018, Manhattan began implementing its new marijuana enforcement policy. While selling marijuana remains illegal, smoking in public or possessing up to 25 grams will not lead to arrests there. Brooklyn DA has been following a similar policy since 2014. Other boroughs, however, have not followed suit: Bronx, Staten Island, and Queens District Attorneys said that marijuana is still illegal and they will continue to pursue valid possession and smoking cases.

As a result, New York State appears to be moving closer to legalizing recreational marijuana use. There is broad support for legalization, with 63% of New York voters in support of legalizing regulated adult-use marijuana.

CHAPTER 6.

Frequently Asked Questions

Will medical marijuana make me high?

The answer depends on the medical marijuana composition and strain.

Composition: Medical marijuana that contains a high proportion of THC may have mind-altering effects. Medical marijuana that contains CBD only will not have any psychoactive effects. Yet some studies show that a combination of THC and CBD is sometimes more effective than CBD alone. So, if you are looking for medical marijuana that provides health benefits without the mind-altering effects, then look for a product with a higher concentration of CBD.

Strain: Hundreds of strains of cannabis are now available. Most are a variation of two distinct strains, Cannabis sativa and Cannabis indica, or are a hybrid of these strains. Cannabis indica usually has a higher level of THC.

Will I be arrested for use or possession of medical marijuana?

You should not be arrested if you are in legal possession of medical marijuana. To prove that you are in possession legally, you should carry your medical ID card with you at all times – it will show that you are a registered patient.

Will using medical marijuana affect my receipt of government benefits – Medicaid, SSI, Food Stamps, Section 8?

Food Stamps: Currently, unlike the cost of traditional medicine, the cost of medical marijuana is not a permitted expense under the food stamp calculation. However, purchase of medical marijuana will not disqualify you from receiving Food Stamps.

Section 8: Current regulations state that individuals who live in federally funded housing are prohibited from possessing and using marijuana, just as they are tobacco, on the property. Therefore, you should not be smoking marijuana if you are living in federally funded housing. However, New York State prohibits smoking as a delivery method of medical marijuana anyway, so it should not be an issue.

If you are using medical marijuana through other methods, such as lotion, oils, or ingestibles, no one is likely to know about your use.

Medicaid and SSI: Neither Medicaid nor SSI currently require drug testing in their eligibility determination. Eligibility is currently determined solely by income and asset level. Therefore, your use of medical marijuana should not affect your eligibility status.

What if I cannot get to the doctor physically or there are no doctors geographically close to me?

There are some Registered Practitioners that are willing to do home visits or video exams. You will have to call several doctors to find one that is willing to accommodate your situation.

What if I cannot get to a dispensary because of my physical limitations?

You can register up to 2 caregivers who will be allowed to purchase and pick up medical marijuana from the dispensary and bring it to your house. After your application is approved, the designated caregiver must also register with the Department of Health.

Some dispensaries offer delivery services. Please contact dispensaries directly to see if they offer this service.

Can I be fired from my job for using medical marijuana?

You cannot be arrested for carrying and using medical marijuana. Your employer, on the other hand, is not obligated to permit you to use medical marijuana in the workplace. Furthermore, your employer is unlikely to permit you to continue working if you are exhibiting signs of being under the influence. Currently, there are no special accommodations for users of medical marijuana. Therefore, if you are using medical marijuana and working, you would be better off using a product with a higher concentration of CBD, which does not cause psychological symptoms.

Should I buy CBD oil online instead of going to a doctor?

There are a lot of online groups and advertisements that tout CBD as a treatment for all types of ailments. There are capsules, tinctures, lotions, beauty products, snacks, coffee and even vaginal suppositories that you can purchase online without leaving your home or getting registered with the state.

However, there are several issues with buying CBD oil online:

First, the law regarding shipping across US is unclear. Given that CBD falls under DEA's schedule 1 designation, by purchasing it online, you may be engaging in a drug trade. Even though right now the government is not prosecuting purchasers, if in the future administration decides to do so, the law would be on its side.

Second, buying online is less reliable because there is no regulation or standardization of the product. You cannot be sure about the actual quantity of CBD that you are getting and you cannot be sure of the quality of the product. If you have one of the health conditions that qualifies for treatment by medical cannabis in New York, it is better to buy it from a local regulated dispensary.

Third, there will be no monitoring your reaction by a professional or adjustment of your dose. If you purchase CBD through your doctor, the doctor may be aware of the most recent research regarding interaction of CBD with your other medication and may actually prescribe a dose and a type of medicine that will work best for you.

CHAPTER 7.

Conclusion

Use of Medical Marijuana is a developing and growing field. The entire industry is currently like the “Wild West”. The research on the use of medical marijuana is on-going and we expect new uses of the product to be discovered. If you want to find out more information about medical marijuana, ask your medical practitioner first. If your medical practitioner cannot or will not answer your questions, find another medical practitioner who is qualified to answer your questions.

Contact Katya Sverdlov, Esq. if you have any legal questions about the use of medical marijuana, about elder law or about estate planning.

