

# **New York City Ban on Pre-Employment Drug Testing Won't Apply to (most) Healthcare Workers**

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On May 10, 2019, a bill amending New York City's administrative code related to prospective employee drug-testing officially became law for New York City employers. While the law does not go into effect until May 10, 2020, it is the first of its kind in the nation. The law prohibits employers from requiring applicants to submit to pre-employment drug testing for the presence of marijuana or THC. Once the law takes effect, employers in New York City will not be permitted to conduct pre-hire marijuana testing as a condition of employment, but employers will still be allowed to screen for other illicit substances such as opiates, amphetamines, etc.

The new law, however, contains an important exception for certain healthcare workers. Specifically, the law does not apply to any individuals applying for work in any position requiring the supervision or care of children, medical patients, or vulnerable persons as defined by Section 488(15) of the New York Social Services Law. The law further excludes employees in positions that "significantly impact the health or safety of employees or members of the public."

These exceptions come as welcome news for hospitals, nursing homes, and other healthcare providers. While New York City is expected to issue rules for implementing the new law and further guidance on these and other exceptions, the breadth of these exceptions remains uncertain. For healthcare providers, an important question is whether the exceptions apply to non-medical staff working in medical facilities, such as maintenance employees.

The new law will not affect employers' right to discipline employees reporting to work under the influence. However, while the plain language of the new law applies only to "prospective employees," it is not yet clear whether the new law will have any impact on an employer's right to test current employees for the presence of marijuana.

For now, employers will have to wait until New York City provides further guidance. Luckily, the law does not go into effect until next year, so employers will have ample time to implement new pre-hiring procedures. For more information about New York City's ban on pre-employment drug testing, read our article "[New York City Employers Are Barred from Testing Job Applicants for Marijuana Use.](#)"

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