

Medical Marijuana Comes to North Dakota: What North Dakota Employers Need to Know

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When North Dakota's Compassionate Care Act went into effect on December 8, 2016, North Dakota joined a proliferation of 28 states across the country that have legalized some form of medical marijuana use. Codified at North Dakota Century Code Section 19-24-01, North Dakota's new law limits medical use of marijuana to individuals with certain "debilitating medical conditions," including, but not limited to, cancer, human immunodeficiency virus (HIV) and acquired immune deficiency syndrome (AIDS), posttraumatic stress disorder (PTSD), and epilepsy.

North Dakota's Compassionate Care Act does not allow employees to possess marijuana in the workplace. And, unlike the medical marijuana laws in neighboring Minnesota and a handful of other states that contain antidiscrimination provisions that employers must adhere to, North Dakota's Compassionate Care Act provides no such prohibition.

As such, North Dakota employers are free to choose to comply with federal law where North Dakota and federal law differ, and thus may continue to prohibit marijuana possession and use for medical purposes in their drug-free workplace policies. North Dakota employers that wish to continue to prohibit all marijuana use and possession among their employees despite the passage of the Compassionate Care Act may want to consider revising their drug-free workplace policies and otherwise communicating to North Dakota employees their intention of doing so.

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