



July 15, 2019

New Jersey Passes the Compassionate Use of Medical Cannabis Act

On July 2, 2019, the State of New Jersey passed Assembly Bill 20 (the Compassionate Use of Medical Cannabis Act (“CUMCA”)), which extended employment protections to authorized users of medical cannabis. The CUMCA applies effective immediately and prohibits employers from taking adverse employment actions against current or prospective employees based on an individual’s status as a qualifying user of medical cannabis.

Adverse Employment Action

Under the CUMCA, an adverse employment action occurs when an employer refuses to hire an applicant, discharges an employee, forces an employee to retire, or otherwise discriminates against an individual in compensation or in any terms, conditions, or privileges of their employment.

Drug Testing Policies

The CUMCA requires that employers, who drug test employees and applicants, offer those individuals the opportunity to respond to testing positive for cannabis. Employers must provide **written notice** offering an individual who tests positive the right either to provide a **legitimate medical explanation** for a positive test result or to request a retest of the sample.

The positively tested individual has **three business days** after receiving the notice to

- provide an explanation that may include an authorization to use medical cannabis issued by a health care practitioner;

- proof of registration with the state’s Cannabis Regulator Commission, or both;
- alternatively, an individual may request a retest of the original sample at his or her own expense.

Additional Protection

The CUMCA’s protections also extend to health care practitioners who engage in conduct authorized by the law. A health care facility may not take adverse employment action against a health care practitioner or terminate a professional affiliation with a health care practitioner for engaging in conduct permitted by CUMCA, which includes

- authorizing patients for the medical use of cannabis
- issuing written instructions to patients about cannabis use, or
- consulting with a patient about the use of medical cannabis to treat the patient’s qualifying medical condition.

The CUMCA **does allow** employers to take adverse action against healthcare practitioners and medical cannabis users if their affiliations with such individuals would cause the employer to lose federal money or benefits.

Takeaway for Employers

New Jersey employers should train their human resources staff and supervisors on the CUMCA and should review internal policies and protocols to ensure compliance with the law. Employers should create a procedure to deliver swift responses to positive drug-test results, which includes providing written notice that complies with the law.

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We are, of course, available to assist with any questions regarding this new law and with the drafting of such notices and policies.

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