

## Medical Marijuana

There is a growing consensus in the medical community that marijuana, or the active ingredients in it, have some legitimate medical applications. Of course, opinions as to the exact extent of marijuana's medical usefulness vary widely.

As a result, some U.S. states have taken it upon themselves to legalize, to various extents, the cultivation, sale, possession, and use of marijuana for medical purposes, with the recommendation of a doctor. Currently, there are 19 states that allow the use of medical marijuana, to varying degrees.

Marijuana has been shown to be an effective treatment for glaucoma, and some studies suggest that it may be mildly effective in treating some forms of cancer – but these findings are controversial, and far from conclusive. Marijuana is most often used to improve the quality of life of patients undergoing intensive chemotherapy to treat cancer or HIV/AIDS. These drugs can have painful side effects, and marijuana can be highly effective at alleviating many of them.

### **What is the Legal Status of Medical Marijuana in the U.S.?**

This is a somewhat complicated issue. As mentioned above, 19 states currently allow residents to use marijuana to treat various medical conditions, and to alleviate the symptoms of others.

However, marijuana, regardless of how it's being used, remains illegal under federal law. It is a Schedule I controlled substance under federal law, meaning the federal government believes that it has no recognized medical applications, and a high potential for abuse.

In 2005, the U.S. Supreme Court ruled, in *Gonzales v. Raich*, held that the federal government has the constitutional authority to enforce its criminal prohibition against marijuana, even if it is legal in the defendant's state, and doesn't cross state lines.

Accordingly, growing marijuana for medical use, even if it's legal in your state, can land you in trouble with the federal government.

Under the Bush administration, the federal government aggressively enforced its anti-marijuana laws, going after some larger dispensaries of medical marijuana that operated within the confines of state law, apparently to make examples of them, and show that federal law still has force.

However, the Obama administration has shifted the policy on this, and stated that it would not actively pursue cases against anyone who grows, sells, or uses medical marijuana in accordance with the laws of their state. Of course, the administration could change this policy at any time, as could any future administration.

No matter how many states legalize medical marijuana, they cannot directly force the federal government to legalize it. This would require an act of Congress for which there appears to be almost no political will.

Full legalization under federal law is highly unlikely in the foreseeable future. What is slightly more likely is a move to “reschedule” marijuana. Under the Controlled Substances Act, every controlled substance is classified under a “schedule,” based on their medical usefulness, and potential for abuse. They range from Schedule I to Schedule V.

Schedule I drugs are said to have no accepted medical uses, with a very high potential for abuse. Schedule 5 drugs are said to have a very low potential for abuse, and well-established medical uses. There are laws in place that limit access to these drugs, depending on how they are scheduled. Schedule I drugs cannot legally be prescribed at all – they are completely illegal. Drugs in all other schedules are subject to varying degrees of regulation.

Marijuana is currently a Schedule I drug, which essentially prohibits it. Drugs which are generally considered more dangerous and addictive, such as cocaine, morphine, and methamphetamine, are Schedule II drugs (because they all have some limited medical applications, but a high potential for abuse), meaning that they’re actually *less* prohibited than marijuana.

This strikes many as incongruous, considering the fact that there have been no recorded cases of anyone ever dying from a marijuana overdose, and marijuana is rapidly gaining acceptance in the medical community as having at least some medical uses.

So, while full legalization under federal law is highly unlikely, there’s at least a slight chance that marijuana could be moved from Schedule I to Schedule II.

### **Federal Law Aside, What Do My State’s Laws Allow Me to Do with Medical Marijuana?**

In states that allow medical marijuana, the laws vary widely. In some states, patients are simply allowed to possess, grow, and use small amounts of marijuana for medical purposes, and the law goes no further than that.

In other states, such as California, medical marijuana dispensaries, or “clubs,” are allowed to operate much like any other business; they rent retail space, acquire business licenses, and advertise in local newspapers. Of course, these businesses are tightly regulated, and if the federal government feels like raiding a medical marijuana operation, they are easy targets.

In almost every state, there are limits on how much medical marijuana a patient is allowed to grow and possess.

## **How Can A Lawyer Help?**

A [lawyer](#) in your state who specializes in medical marijuana law is essential in helping you navigate the medical marijuana laws of your state, some of which can be very complicated. Furthermore, they can advise you on how current federal law will affect your right (under state law) to use marijuana for medical purposes.