



CANNABIS STATE-BY-STATE REGULATIONS

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The Tracking Cannabis blog is proud to announce our first-ever state-by-state ranking of state cannabis regulations based on how favorable they are to cannabis businesses. California leads the pack, but you might be surprised by which states make the top – and bottom – of the list.

Our guide provides a holistic review of the current cannabis laws in every state and the District of Columbia, from most favorable to cannabis businesses to most restrictive. In addition, you can find each state in alphabetical order below.

1. Cannabidiol (CBD) – legality and required qualifications;
2. Medical cannabis – legality and required qualifications;
3. Recreational cannabis – legality and issuance of commercial cannabis licenses;
4. Non-profit cannabis entities – permissibility and requirements;
5. Commercial cannabis licenses – availability, caps and restrictions;
6. Cannabis regulatory agencies – authority and qualifications;
7. Developments and trends – support for ongoing cannabis legalization measures; and
8. Business opportunities – number of operators, consumers and untapped industry potential.

Note that this ranking is subjective, and different factors weigh more heavily in different states. All of the information regarding each state is current as of the date of this posting. However, laws are constantly changing and with each election the statutes in any particular state may also change. In addition, this list does not consider federal laws, which may be consistent on a national level but can be applied selectively on a state level. To find any particular state, just click on the link below.

State	Ranking
Alabama	33
Alaska	6
Arizona	25
Arkansas	23
California	1
Colorado	4
Connecticut	20
Delaware	26
District of Columbia	10
Florida	12
Georgia	46
Hawaii	17
Idaho	50
Illinois	18
Indiana	39
Iowa	34
Kansas	49

State	Ranking
Kentucky	40
Louisiana	32
Maine	9
Maryland	14
Massachusetts	3
Michigan	7
Minnesota	27
Mississippi	47
Missouri	35
Montana	19
Nebraska	51
Nevada	2
New Hampshire	31
New Jersey	13
New Mexico	16
New York	11
North Carolina	36

State	Ranking
North Dakota	24
Ohio	28
Oklahoma	30
Oregon	5
Pennsylvania	22
Rhode Island	29
South Carolina	41
South Dakota	48
Tennessee	42
Texas	45
Utah	43
Vermont	15
Virginia	44
Washington	8
West Virginia	21
Wisconsin	38
Wyoming	37

#1: CALIFORNIA

California has legalized both adult-use and medical marijuana, making it one of the most relaxed states in the nation with regard to cannabis use. The Compassionate Use Act of 1996 (Proposition 215) was the first legislation in the United States legalizing medical marijuana use under state law. It has subsequently been superseded by the Medical and Adult-Use Cannabis Regulation and Safety Act, which is discussed in-depth below.

CUA allowed patients and their primary caregivers to obtain marijuana for medical use by the patient without subjecting either to criminal prosecution. The Act authorized medical use for patients with one of 11 specific conditions and included a general purpose clause that also allowed use for any condition that substantially limited the ability of a person to conduct a major life activity as defined in the ADA.

Proposition 64, also called the Adult-Use Marijuana Act, took effect on November 9, 2016. It allows adults twenty-one and older to cultivate up to six plants and possess 28.5 grams of marijuana or 8 grams of concentrated cannabis. Adults can also give away up to one ounce of cannabis to other adults. It restricts the possession or use of cannabis in certain areas like public places, non-smoking areas, daycares, schools, and vehicles.

The Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), enacted in June 2017, combined the regulatory framework for medicinal and adult-use cannabis. MAUCRSA designated three agencies to oversee cannabis activity: (1) the Bureau of Cannabis Control, which is the lead regulatory agency and authorizes licenses; (2) the California Department of Public Health – Manufactured Cannabis Safety Branch; and (3) the California Department of Food and Agriculture – CalCannabis Cultivation Licensing. The licensing system created by MAUCRSA is complex, with a minimum of twenty license classifications and an elaborate set of regulatory requirements established under the emergency regulations adopted by each agency.

License types include, but are not limited to, adult use, medical use, types of cultivation and manufacture, retailer or distributor, testing, and microbusiness. Once a license is granted, it is non-transferable. There are no caps on the number of licenses, but the requirements are rigorous. MAUCRSA also grants municipalities the power to further regulate commercial cannabis or to prohibit it altogether.

To be granted a state license, applicants must be residents of California, pass a background check, provide proof of a legal right to use the proposed location, apply for and obtain a valid seller's permit, provide proof of bond, and describe the applicant's operating procedures in detail. If an applicant's business will have more than twenty employees, a statement agreeing to abide by the terms of a labor peace agreement must also be provided.

With regard to criminal punishment, California has very forgiving policies compared to most states. Underage use or possession often results in a small fine or counseling, with use on the grounds of a grade school having harsher punishments. Illegal cultivation and possession with intent to sell are both misdemeanors, though the latter can be enhanced to a felony depending on certain conditions. It remains a felony to employ a minor in cannabis sales or to provide cannabis to a minor.

Overall, California's attitude toward cannabis legalization and regulation is welcoming when compared to other states. It was the first state to legalize medical marijuana and one of the first to legalize adult use. While some municipalities impose further restrictions or prohibit adult use, there are many that see legalization as an economic opportunity to be capitalized on. With a robust supply chain for both medical and adult use emerging throughout the state, California leads the nation in its regulation of commercial cannabis activity and cannabis use.

#2: NEVADA

Nevada legalized medical marijuana in 2001 and adult-use marijuana in 2017. Medical marijuana legislation is codified under Chapter 453A. Medical Use of Marijuana in Nev. Rev. Stat. §§ 453A.010 to 453A.810. Adult-use marijuana

is permitted under the Regulation and Taxation of Marijuana Act, which is codified in Nev. Rev. Stat. §§ 453D.010 to 453D.600. The Nevada Department of Health and Human Services (the "Department") is tasked with regulating commercial cannabis activity. To qualify for a medical prescription, a patient must be diagnosed with a "chronic or debilitating medical condition," which includes conditions ranging from cancer to severe nausea.

Adult-use marijuana restrictions are similar to restrictions on alcohol: users must be 21 years of age or older; marijuana may only be purchased from a business licensed in Nevada; selling or giving marijuana to individuals under 21 years of age is illegal; and driving under the influence of marijuana is illegal.

Medical marijuana establishment certificates are available for an independent testing laboratory, a cultivation facility, a facility for the production of edible marijuana products or marijuana-infused products, or a medical marijuana dispensary. To obtain a certificate, an applicant must complete an application and pay the requisite fee.

Among other things, the application requires evidence that the applicant controls not less than \$250,000 in liquid assets to cover initial expenses and evidence that the applicant owns property on which the proposed medical marijuana establishment will be located or permission from the owner of the property. There is a cap on the number of certificates that may be issued, and the cap is based on county population.

Nevada's medical marijuana businesses must follow certain rules, as set out in the statute. One such rule is that each medical marijuana establishment must "[h]ave an appearance, both as to the interior and exterior, that is professional, orderly, dignified and consistent with the traditional style of pharmacies and medical office, and [h]ave discreet and professional signage that is consistent with the traditional style of signage for pharmacies and medical offices." Other requirements, such as installing a video monitoring system, must also be followed. Additionally, if the city or county where the medical-marijuana establishment is located has enacted zoning restrictions, the establishment must be in compliance.

Licenses are issued for adult-use marijuana establishments if an applicant completes an application and pays the requisite fee. For 18 months after the Department began to receive applications for marijuana establishments in early 2018, the Department will only accept applications for licenses for retail marijuana stores, marijuana product manufacturing facilities, and marijuana cultivation facilities.

Additionally, during such period, licenses will be issued to marijuana distributors only if the person holds a wholesale dealer license, unless an insufficient number of distributors results from that limitation. Moreover, the application will be accepted only if the proposed establishment is not in violation of any zoning or land use rules adopted by the locality where the establishment would be located.

There is also a cap on the number of licenses that may be issued, and the cap is based on county population. Adult-use marijuana establishments must also follow certain rules regarding production, manufacturing, distribution, and/or sales of cannabis products. For example, cultivation, processing, and manufacture of marijuana must not be visible from a public place by unaided vision.

Seeing as how Nevada permits both medical and adult-use marijuana, the state's attitude towards marijuana seems positive. Nevertheless, Vegas hotels and casinos are not embracing the legislation as much. As gaming is a \$13 billion business in Nevada and casino licenses require following federal law, it seems that Vegas casinos and hotels may have too much at stake to allow marijuana smoking in their hotels, at least while marijuana use remains illegal at the federal level.

#3: MASSACHUSETTS

Massachusetts legalized the adult-use of marijuana in November 2016. Any person 21 and over will no longer be penalized for possessing, using, purchasing, or giving away one ounce or less of marijuana. They can also possess up to 10 ounces of marijuana from plants cultivated within their primary residence. The definition of marijuana is very broad, and unlike states like [Arizona](#), likely encompasses cannabidiol.

Additionally, medical marijuana is governed by a separate act known as the Humanitarian Medical Use of Marijuana. It was enacted in 2012 and allows for the acquisition, cultivation, possession, processing, transfer, transportation, sale, and distribution for the benefit of qualifying patients. The list of qualifying conditions is fairly broad and includes cancer, glaucoma, HIV, hepatitis C, and Chron's disease as a few examples. Other conditions not specified in the statute itself may also qualify if so determined in writing by the patient's treating physician.

Under its adult-use regulations, marijuana establishments must obtain appropriate licenses to operate legally within the state. Massachusetts offers eight types of business licenses: marijuana cultivator, craft marijuana cooperative, marijuana product manufacturer, marijuana retailer, marijuana research facility, independent testing laboratory, marijuana transport, and marijuana microbusinesses.

Commercial cannabis activity is regulated by the Cannabis Control Commission, but local municipalities can also regulate some activities. Although there is a cap on the number of licenses a licensee can obtain, cannabis businesses can operate as for-profit entities. The favorable regulatory climate and sizable market make Massachusetts a lucrative state for commercial cannabis operators.

#4: COLORADO

Currently, both medical and adult-use cannabis is legal within the State of Colorado. Colorado's constitution was amended on December 28, 2000 to legalize medical-use marijuana and amended again on December 10, 2012 to legalize adult-use marijuana.

For medical and adult-use marijuana-related businesses wishing to operate in Colorado, the state issues licenses that vary, depending upon the entity's actual business interest. For example, a license to grow marijuana has different qualifications than a license to sell marijuana. In addition to business interest specific qualifications, there are general qualifications that must be met for every commercial cannabis license. General requirements include: age of 21 years or older, pass a background check, file a complete application, and pay a licensing fee.

While Colorado does require many different qualifications to obtain a license, state law permits the transfer of commercial cannabis licenses. However, in some instances, local licenses might also be required, which may have restrictions as to the licenses transferability.

In a similar vein, Colorado, at the state level, does not cap the number of licenses issued, but some counties and municipalities do restrict the number of licenses that may be issued and active within that particular county. State cannabis regulations impose various restrictions on licensees. For example, a Retail Marijuana Cultivation Facility is only authorized to cultivate a maximum of 1,800 plants at any given time. According to the Colorado Department of Revenue, the intent of this rule is to encourage responsible production to meet demand for retail marijuana, while also avoiding overproduction or underproduction.

Additionally, the state limits the amount of cannabis that can be sold by retailers. A Retail Marijuana Store and its employees are prohibited from transferring more than one ounce of Retail Marijuana flower or its equivalent in Retail Marijuana Concentrate or Retail Marijuana Product in a single transaction to a consumer.

As other states slowly move towards comprehensive cannabis legalization, Colorado's overall attitude regarding legalization has consistently been ahead of the rest of the nation. Since the legalization of adult-use marijuana in 2012, Colorado has focused on establishing a robust regulatory framework and increasing the effectiveness of these regulations through subsequent legislation.

One such legislative initiative proposed an increase in the punishment for a person not licensed to sell medical or adult-use marijuana to advertise for the sale of marijuana. Other legislative actions have been more permissive, increasing opportunities for cannabis investment in the state.

For example, HB 18-1011, signed into law on June 5, 2018, repealed law that required limited passive investors to go through an initial background check when investing in a cannabis related company. HB 18-1011 also allows certain publically traded companies to hold an interest in medical marijuana businesses and offer securities for investment in medical marijuana businesses.

#5: OREGON

Oregon legalized the use of medical marijuana in 1998 with the passage of Measure 67, known as the "Medical Marijuana Act" (OMMA). ORS 475B.785 to 475B.949. OMMA modified state law to allow the cultivation, possession, and use of marijuana by patients with certain medical conditions upon recommendation by a doctor and compliance with OMMA. The rulemaking authority pursuant to OMMA is vested in the Oregon Health Authority. See ORS 475B.949.

Under OMMA, in order to legally use marijuana for medical purposes a person must first obtain a registry identification card under 47B.797. To do so, a person must have a "debilitating medical condition" as defined in ORS 475B.791(6) and provide written documentation from an attending physician certifying the patient has "a debilitating medical condition and that the medical use of marijuana may mitigate the symptoms or effects of the applicant's debilitating medical condition."

Patients with medical condition that are not listed in 791(6), may petition the Oregon Health Authority, pursuant to ORS 475B.946, to have their condition included among the diseases and conditions that qualify as debilitating medical conditions. Employers are not required to accommodate the medical use of marijuana in the workplace. See ORS 475B.794. A person with a valid registry identification card may establish a marijuana grow site to, or designate another person to, grow marijuana pursuant to ORS 475B.810.

Oregon legalized adult-use of marijuana in 2014 with the passage of Measure 91, known as "The Control, Regulation, and Taxation of Marijuana and Industrial Hemp Act." The Act, codified at ORS 475B.005 to 475B.548, was renamed the "Adult and Medical Use of Cannabis Act" upon codification at 475B.010 to 475B.545 and became operative on July 1, 2015. The Act expressly does not amend nor affect the Medical Marijuana Act. See ORS 475B.020(7) and ORS 475B.531. The rulemaking authority pursuant to the Act is vested in the Oregon Liquor Control Commission. See ORS 475B.025.

The Adult and Medical Use of Cannabis Act legalizes the possession, use, and cultivation of marijuana by adults age 21 or older. See ORS 475B.010 to 475B.545. Pursuant to ORS 475B.301, persons aged 21 or older may grow up to four marijuana plants in their household, may possess up to eight ounces of useable marijuana, may produce and/or possess up to 16 ounces of cannabinoid products in solid form, produce and/or possess up to 72 ounces of cannabinoid products in liquid form, and may produce and/or possess up to 16 ounces of cannabinoid concentrates. A variety of licenses are available for activities such as production (475B.070), processing (475B.090), wholesaling (475B.100), and retailing (475B.122).

The State of Oregon, overall, seems to look very favorably upon cannabis and cannabis products. Oregon passed the Medical Marijuana Act for two primary policy reasons: (1) Patients and doctors have found marijuana to be an effective treatment for suffering caused by debilitating medical conditions and, therefore, marijuana must be treated like other medicines; and (2) Oregonians suffering from debilitating medical conditions should be allowed to use marijuana without fear of civil or criminal penalties when a doctor advises that using marijuana may provide a medical benefit and when other reasonable restrictions are met regarding that use. See ORS 475B.785(1) and (2).

The two primary policy reasons behind the Adult and Medical Use of Cannabis Act are: (1) to eliminate the problems caused by the prohibition and uncontrolled manufacture, delivery and possession of marijuana within this state; and (2) to protect the safety, welfare, health and peace of the people of this state by prioritizing this state's limited law enforcement resources in the most effective, consistent and rational way. See ORS 475B.005(1)(a) and (b).

Since legalizing cannabis, Oregon has increased its efforts to curtail illegal production and transportation of marijuana as black market activity has continued to grow. This issue was noted in a May 2018 memorandum written by U.S. Attorney for Oregon Billy Williams in which he stated "there can be no doubt that there is significant overproduction of marijuana

in Oregon. As a result, a thriving black market is exporting marijuana across the country, including to states that have not legalized marijuana under their state laws.”

Several recent bills were passed to curb illegal cannabis activity in the state. For example, Senate Bill 56, 2017 Session, effective June 23, 2017, “[r]equires OMMP to maintain a telephone hotline to verify addresses of grow sites, processing sites, and dispensaries.” Senate Bill 1057, 2017 Session, effective May 30, 2017, “[made] several changes to the laws governing medical marijuana including requiring the use of the Cannabis Tracking System for certain medical registrants.” According to the OLCC, “[s]ince April 2016, the OLCC has issued almost 1,900 adult-use marijuana licenses and almost 29,000 marijuana worker permits. The pace of application submissions has not slowed, and as a result, the licensing application process timeline has lengthened.”

On May 30, 2018, the OLCC announced it would temporarily “pause” accepting new applications for licenses under the Adult and Medical Use of Cannabis Act, beginning on June 15, 2018. The OLCC is not accepting new applications and is temporarily shifting “licensing staff to exclusively process adult-use marijuana license renewals and applications for adult-use marijuana licenses” in order to “clear the application backlog and ensure the ongoing oversight of the legal marijuana market.” Also, as a result of a recent change in Oregon law, up to 2,000 grow sites were required to register with the state’s Cannabis Tracking System (CTS) by July 1, 2018.

#6: ALASKA

Alaska legalized the adult-use of marijuana in 2014 with a successful ballot measure, making it the third state in the nation at the time (behind [Colorado](#) and [Washington](#)) to legalize adult-use. Any person 21 and over is not subject to criminal or civil penalties under state law for possessing, growing, purchasing, or transferring to another person 21 and over one (1) ounce or less of marijuana. The state also permits businesses to possess, grow, process, transport, or transfer to another person 21 and over up to six (6) marijuana plants. The statutory definition of marijuana is broad, and likely encompasses products like cannabidiol.

Commercial businesses must obtain appropriate licenses to operate legally within the state. Alaska offers four (4) licenses: retail marijuana stores, marijuana cultivation facilities, marijuana product manufacturing facility, and marijuana testing facility. The licensing framework in Alaska is favorable to cannabis businesses. These licenses can be transferred with approval from the state’s Marijuana Control Board, the state agency charged with regulating commercial business within the state. A business can operate as non-profit or for-profit, but they must be run by Alaska residents.

Further, patients with certain debilitating medical conditions can apply to register and receive a medical marijuana identification card. The law provides an affirmative defense against state-law prosecution for the manufacture, delivery, or possession of marijuana if the patient is properly registered with the state. The list of eligible conditions is broad and includes, for example, cancer, glaucoma, chronic conditions resulting in severe pain, nausea, or seizures. Other conditions may also be approved by the state’s Department of Health and Social Services.

#7: MICHIGAN

Currently, only medical-use cannabis is legal within the State of Michigan. Enacted in 2008, the Michigan Medical Marijuana Act (“MMMA”) legalized the use and possession of cannabis by any Michigan resident diagnosed with a debilitating medical condition. Presently, a debilitating medical condition includes cancer, glaucoma, Hepatitis C, Crohn’s disease, Alzheimer’s, and any other medical condition approved by the Michigan Department of Licensing and Regulatory Affairs.

Although the state currently permits only medical cannabis, it is particularly business-friendly, as it issues licenses and permits to for-profit enterprises. For medical-use cannabis-related businesses wishing to operate within the state, Michigan issues licenses that vary depending upon the company’s actual activities. Each license is subject to different

statutory qualifications. In 2016, Michigan enacted the Medical Marijuana Facilities Licensing Act, which provided for the licensure of marijuana growers, processors, secure transporters, provisioning centers, and safety compliance facilities. Once obtained, all of the aforementioned licenses may be transferred after state approval.

As of now, the only statutory limitations placed on medical-use cannabis companies operating in the Michigan market are on production. Medical-use cannabis production companies are limited as to the amount of cannabis the company is legally allowed to produce. The limitation depends on the company's class of license. For example, a "Class A" production license allows a company to produce 500 cannabis plants, while a "Class B" license permits a company to produce 1,000 cannabis plants.

Also in 2016, House Bill 4210 amended the Michigan Medical Marijuana Act to prevent a person from being penalized for manufacturing a marijuana-infused product if the person was a qualified registered patient or a registered primary caregiver. On the municipal level, cannabis activity is regulated by local governmental authorities. In towns such as Ann Arbor, where an annual "Hash Bash" event has been celebrated by residents and University of Michigan students for almost 50 years, local ordinances regulate and license cannabis dispensaries.

As states slowly continue towards cannabis legalization, Michigan's overall attitude regarding legalization has consistently been ahead of the other states. The passage of the Michigan Medical Marijuana Act in 2008 made Michigan one of the first states to legalize medical-use cannabis. More recently, on November 6, 2018, Michigan voters will be able to legalize adult-use cannabis, possibly following precedent set by the nine current adult-use states ([Alaska](#), [California](#), [Colorado](#), [Maine](#), [Massachusetts](#), [Nevada](#), [Oregon](#), [Vermont](#), and [Washington](#)).

#8: WASHINGTON

Washington State has a history of being ahead of the curve on marijuana legislation. The state legalized medical use in 1998 via ballot measure (Wash. Initiative 692), just two years after California became the first state to legalize medical marijuana. On November 6, 2012, Washington State became one of the first two states to legalize adult-use (along with Colorado, which legalized adult-use marijuana on the same day) by passing Washington Initiative 502. This legalized adult-use marijuana for those 21 years and older.

Given the longer duration of Washington's medical and adult-use marijuana programs, the laws and regulations are more comprehensive than other states. The medical program is run through the Washington State Health Department, while the adult-use program is run by the Washington State Liquor and Cannabis Board. Chapter 69.51A of the Revised Code of Washington offers full details on the medical program and its restrictions, while Washington Admin. Code Title 314-55 provides all regulations relevant to the adult-use program.

The adult-use program is heavily licensed, and heavily restricted. Residency requirements, financing regulations, and limits on the number of licenses per entity are all found in the Washington Administrative Code.

#9: MAINE

On May 2, 2018, the Maine Legislature overturned a veto by Governor Paul LePage in order to pass a piece of adult-use cannabis legalization legislation. The Legislature voted heavily in favor of passing the bill, as the House votes tallied 109-39 in favor of the bill and the Senate votes tallied 28-6 in favor of the bill. The bill, known as the Marijuana Legalization Act, legalizes the adult-use of cannabis throughout the state without restrictions on tetrahydrocannabinol (THC) limits.

The Act allows a person to both use or possess up to five grams of marijuana or marijuana concentrate without legal ramifications. The Act restricts the amounts of marijuana plants adults can use and transfer and imposes many requirements on companies seeking a license to cultivate, test, manufacture, or sell marijuana or marijuana concentrate.

The Act has been gaining traction throughout the state since voters approved of adult-use cannabis legalization during the November 2016 election. It had taken eighteen months for the voters will to officially pass through legislation.

Although the Act legalized marijuana use on private property, the use of marijuana in bars or restaurants is still entirely illegal. The director of Smart Approaches to Marijuana, Scott Gagnon, who opposed the Marijuana Legalization Act, stated that he was happy that the bill still banned the adult use of marijuana in social clubs. He was quoted saying that it was “an improvement,” and that “it’s going in the right direction.”

#10: DISTRICT OF COLUMBIA

Currently, the District of Columbia has legalized medical marijuana and decriminalized marijuana possession. Washington D.C. legalized medical marijuana use in 2010. Codified at D.C. Code Ann. § 7-1671, it allows a patient, who is a resident of D.C., with a qualifying medical or dental condition to use marijuana. A qualifying medical or dental condition means any condition for which treatment with medical marijuana would be beneficial, as determined by the patient’s authorized practitioner.

D.C. issues licenses to medical dispensaries and cultivation centers. A dispensary is a facility operated by an organization or business from or at which medical marijuana is possessed and dispensed, and paraphernalia is possessed and distributed to a qualifying patient or a caregiver. A cultivation center is a facility operated by an organization or business from or at which medical marijuana is cultivated, possessed, manufactured, and distributed in the form of medical marijuana, and paraphernalia is possessed and distributed to dispensaries.

In order to qualify for a license, an organization or business needs to register with the Mayor pursuant to § 7-1671.05. The business can qualify for a license whether it is for-profit or not-for-profit. There cannot be more than six cultivation centers within an election ward. Further, a cultivation center cannot have more than 1,000 living marijuana plants at any time. In addition to this, a dispensary cannot dispense more than two ounces of medical marijuana in a 30-day period to a qualifying patient.

D.C. also decriminalized marijuana possession in 2014. Codified at D.C. Code Ann. §§ 48-1201 to -1213. Under D.C. Code Ann. § 48-1201, an individual who possesses or transfers, without remuneration, up to one ounce or less of marijuana is committing a civil violation. This statute has led to a gray area in D.C.’s cannabis law.

The future of cannabis law in D.C. is dependent on the U.S. Congress. Even though D.C. voters approved the taxation and regulation of marijuana transactions for adult-use in 2014, Congress shot down the effort. Thus, what we have today are people tiptoeing around the law. Many entrepreneurs are exploiting the gray area that currently exists between permissible possession and transfer of up to one ounce of marijuana and the illegal sale of marijuana.

#11: NEW YORK

New York legalized medical marijuana in 2014 (N.Y. Pub. Health Law § 3362). The program is run through the New York State Dept. of Health, and is governed by the New York Medical Marijuana Program Regulations (NY MMP Regs). The regulations are reasonably comprehensive, covering entity registration, licensing, production limitations and qualifying medical conditions for patients.

Although the prevalence of medical marijuana has significantly increased in recent years, including the April 2018 opening of a medical MedMen dispensary on 5th Avenue in Manhattan, New York has not legalized adult use of marijuana. Possession of amounts less than twenty-five grams has been decriminalized, but possession and sale remain illegal. There is a strong push for legalization of adult use in New York. In 2018, in light of a recently completed study on the topic, both Governor Cuomo and State Health Commissioner Howard Zucker have come out in favor of adult use legalization of marijuana.

#12: FLORIDA

Unlike most state legislatures that might simply draft a statute in order to legalize either medical or adult-use marijuana, the Florida legislature followed the path set by [Colorado](#) in 2000 and voted to create a provision in the state's Constitution allowing the use of medical marijuana for specific medical conditions. Article 10, Section 29 of the Florida Constitution now allows the use of medical marijuana in Florida. The governing statute empowered by this clause in the Constitution in Florida Statute 381,968, which was passed in 2017 after the constitutional amendment was passed.

Because the medical marijuana provision was added to the Constitution, lawmakers paved the way for any interference with the amendment to be held unconstitutional. This happened in late May as lawmakers tried to place a ban on smoking medical marijuana, even in private. The amendment's language, however, merely mentions smoking in public, so the Florida courts determined that any limitation on smoking medical marijuana in private is unconstitutional.

There are of course limits to who can use medical marijuana in the state, as the statute lays out specific guidelines for people who qualify. Further, adult-use of marijuana is still illegal in the State of Florida.

#13: NEW JERSEY

New Jersey legalized medical marijuana in 2010 with the passage of the "New Jersey Compassionate Use Medical Marijuana Act," codified at N.J.S.A. 24:6I-1, *et seq.* The Act was implemented by the enactment of the "Medical Marijuana Program Rules," codified N.J.A.C. 8:64, *et seq.* The Rules include a sunset provision, whereby the Rules, expire on June 17, 2019. See 50 N.J.R. 1398(a).

The Act was amended in 2012, 2013, 2015 and 2016. Most notably, the 2013 amendment (Senate Bill No. 2842--L.2013, c. 160) modified the Act to "promote easier access to medical marijuana by minor patients; prohibit limitations on the number of strains of medical marijuana cultivate by alternative treatment centers; and expand the available means by which such marijuana is packaged and distributed to qualifying patients."

The 2016 amendment (Assembly Bill No. 457--L.2016, c. 53) added Post-traumatic Stress Disorder to the list of debilitating medical conditions which qualify for medical marijuana. The Commissioner of Health is charged with promulgating rules and regulations to effectuate the purposes of the Act, in consultation with the Department of Law and Public Safety. See NJSA 24:6I-16.

#14: MARYLAND

Although marijuana is not legal for adult use, it is legal for medical use in Maryland. The Natalie M. Laprade Medical Cannabis Commission is responsible for developing policies, procedures, guidelines, and regulations to implement programs to make medical cannabis available for qualifying patients. The Commission was established in 2013 by H.B. No. 1101, which took effect on October 1, 2013.

The Commission's responsibilities are codified in West's Annotated Code of Maryland § 13-3302 *et seq.* Maryland residents, or non-residents located in Maryland for the purpose of receiving medical treatment, need to be recommended for treatment by a physician and must have a qualifying medical condition. Qualifying conditions currently include cachexia, anorexia, wasting syndrome, severe pain, severe nausea, seizures, severe or persistent muscle spasms, glaucoma, PTSD, and chronic pain.

Maryland's robust medical marijuana program permits growers, processors, and dispensaries to obtain licenses to operate within the state. Among other things, applications for medical cannabis cultivation licenses must include

a detailed business plan and potential investments; description of the proposed premises; security plan; details of applicant's experience in horticultural or agronomic production; medical cannabis varieties proposed to be grown; plan for quality control; and more. Md. Code Regs. 10.62.08.02. Applicants must also pass a criminal background check. These requirements are similar for anybody interested in processing cannabis or operating a dispensary.

The Natalie M. Laprade Medical Cannabis Commission is responsible for regulating medical cannabis production/distribution. Maryland Code § 13-3306(2)(i) states that the Cannabis Commission may license no more than 22 medical cannabis growers. Section 13-3309(c)(1)(i) states that the Commission may license no more than 28 processors. There is no statutory cap on dispensary licenses, and Code Section 13-3307(a)(2)(i) states that the Cannabis Commission may report to the General Assembly on the number of licenses necessary to meet the demand for medical cannabis.

The Maryland legislature recently passed an Act establishing a hemp harvesting pilot program in the state, which was approved by the governor on May 8, 2018. The Department of Agriculture is in charge of the pilot program, and the Department approves applications from institutions of higher education that are interested in cultivating hemp. Currently, only the Department of Agriculture or institutions of higher education are able to grow, cultivate, harvest, process, manufacture, transport, market or sell industrial hemp.

The Act also limits the program to hemp used for research purposes, stating that "the Department or an institution of higher education may grow or cultivate industrial hemp if the industrial hemp is grown or cultivated for agricultural research or academic research purposes." H.B. 698 (2018 reg. session). The Department of Agriculture has not yet promulgated regulations pertaining to application requirements for cultivating commercial hemp.

A bill was introduced in the Senate in the 2018 regular session that would allow individuals aged 21 and older to possess up to one ounce of marijuana and to cultivate it in their homes, subject to certain exceptions. The bill is S.B. 1039, 438th Gen. Assemb., Reg. Sess. (Md. 2018). Some survey evidence suggests that the legalization of adult-use marijuana does have popular support throughout the state, with 61% of Maryland residents responding in a Washington Post survey that they do support legalizing the drug. During a debate in June of 2018, all six Democratic candidates for Maryland governor expressed that they support legalizing the adult use of marijuana.

#15: VERMONT

Marijuana is legal for both medical and adult use in the State of Vermont, although the sale of adult-use marijuana is not expressly permitted. The Act establishing the medical use of marijuana became law without the Governor's signature on May 26, 2004. The statutes regulating medical use are 18 V.S.A. § 4471 et seq., and the Department of Health and the Commissioner of Health regulate medical cannabis and establish regulations, which are found in Vermont Administrative Code 17-2-3:3 et seq. House Bill 503 legalizes drugs containing cannabidiol and was signed into law on June 7, 2017. However, the language in the Act states that the use of prescription drugs containing cannabidiol is conditioned upon the approval by the U.S. FDA.

To obtain a medical prescription, an individual must be diagnosed with a debilitating medical condition by a health care professional in the course of a bona fide health care professional-patient relationship. Patients must submit applications with the Department of Public Safety and obtain a card permitting medical use. More details for obtaining a prescription card can be found in Vermont Administrative Code 17-2-3:3 et seq.

Licenses are available for prospective medical cannabis dispensaries, and the application requirements for operating a medical dispensary are outlined in Vermont Regs. 17-2-3:5. Among other criteria, the State considers the applicant's business plan and facility information; expected financial development plan; convenience of the facility for residents that need medical cannabis; and cultivation plan to ensure that the dispensary can meet the needs of patients. Principal board members and officers must be residents of Vermont.

The Vermont Administrative Code limits the number of medical dispensary licenses that can be issued. Currently, there are five dispensaries registered with the Vermont Department of Public Safety Marijuana Registry.

Vermont's cannabis regulations limit the number of marijuana plants and amount of usable marijuana that medical dispensaries may cultivate and possess at any one time. For example, if the dispensary is designated by more than 14 registered patients, it may cultivate and possess at any one time two mature marijuana plants, seven immature plants, and four ounces of usable marijuana for every registered patient for which the dispensary serves as the designated dispensary. 18 V.S.A. § 4474e. Vermont Regulations 17-2-3:6 states that dispensaries "[s]hall operate on a nonprofit basis for the mutual benefit of [their] patients."

Marijuana for adult use became legal on July 1, 2018, pursuant to House Bill 511, which was signed into law on January 22, 2018. The bill is now codified as 18 V.S.A. § 4230. The law eliminated any penalties for individuals 21 years of age or older possessing one ounce or less of marijuana, and for possessing up to two mature and four immature marijuana plants. Any personal cultivation can occur only in an enclosure screened from public view and secure from unauthorized access. Marijuana still may not legally be consumed in a public place, nor may it be consumed in a vehicle.

In addition, Vermont's amended statutes relating to the possession of marijuana do not expressly permit the sale of marijuana for adult use, and they expressly forbid dispensing marijuana to minors under the age of 21. Therefore, even though marijuana may be possessed, cultivated, and consumed by individuals ages 21 and older, the new statutes do not appear to legalize selling or purchasing marijuana.

Industrial hemp is also legal in Vermont. Legislation recently passed by the Vermont legislature will permit the Secretary of Agriculture, Food and Markets to establish a pilot program to research the growth, cultivation, and marketing of industrial hemp. See Vermont Laws No. 143 (H. 663) (2018 session). The bill was approved by the Governor on May 21, 2018 and became effective on July 1, 2018. The laws governing the regulation of hemp are codified in 6 V.S.A. § 561 et seq.

Growers of hemp must register with the Secretary of Agriculture. They are subject to the federal Controlled Substances Act and may purchase or import hemp genetics from any state complying with federal industrial hemp growing requirements. The Secretary of Agriculture, Food and Markets is charged with developing the pilot program, establishing how the program will conduct research, and establishing registration and testing requirements. Hemp crops or products confirmed to meet the definition of hemp under state or federal law may be sold or transferred in interstate commerce. There are not yet any codified regulations outlining the hemp program requirements.

#16: NEW MEXICO

In 2007, New Mexico approved the use of medical marijuana under the "Lynn and Erin Compassionate Use Act," in honor of Lynn Pierson and Erin Armstrong. Pierson and Armstrong were cancer patients and strong advocates of medical cannabis. The Act allows use of medical marijuana for individuals suffering from debilitating medical conditions including cancer, glaucoma, multiple sclerosis, spinal damage, epilepsy, positive status for HIV or AIDS, or those admitted into hospice care. In 2015, the New Mexico Administrative Code added to the list of debilitating medical conditions "any other medical condition, medical treatment, or disease as approved by the department which results in pain, suffering, or debility for which there is credible evidence that medical use [of] cannabis could be of benefit."

Currently, New Mexico has two approved licenses for the production of cannabis for medical use. The first is a personal production license for qualified patients who suffer from a debilitating medical condition and hold a valid registry card. These individuals are authorized to possess no more than four mature female plants and a combined total of twelve seedlings and male plants. The other is for licensed non-profit producers, or LNPPs, which authorizes a combined total of no greater than 450 mature female plants, seedlings, and male plants. New Mexico also allows manufacturers to produce "cannabis-derived" products, but not cannabis itself, for LNPPs. As of January 2018, thirteen manufacturers for cannabis-derived products were approved in New Mexico.

In 2017, the New Mexico Medical Cannabis Program processed 99% of qualified patient applications in 30 days, and 99% of patient registry cards were mailed within five days of approval. In February 2017, 49,000 patients were enrolled in the program, with an average age of 49. Enrollees consisted of 53% men, 47% women, and 13% who also identified as veterans.

#17: HAWAII

Although adult use of cannabis is illegal in Hawaii, the state legalized medical cannabis in 2000 with the passage of Act 228, codified in the Hawaii Revised Statutes at part IX, Chapter 329. Act 228 legalized possession and use of cannabis for medical purposes. To obtain a medical cannabis prescription, a patient must satisfy certain statutory requirements under HRS 329-122, including having a debilitating medical condition. In addition to satisfying these requirements, a patient must register with the state's Medical Cannabis Registry Program. Hawaii does recognize patients who are authorized to purchase medical cannabis in another state.

In 2015, Hawaii passed Act 241 which created the "Medical Cannabis Dispensary Program," codified at part IX, Chapter 329D. Act 241 established regulations and licensing procedures for the creation of cannabis dispensaries. In addition, the Act transferred administration of the state's medical Cannabis Registry Program from the Department of Public Safety to the Department of Health.

In general, Hawaii's laws have become more protective of cannabis use and show support for further legalization in the future. For example, Act 242, also passed in 2015, created new protections for patients and caregivers and prohibited discrimination on the basis of being a registered medical cannabis patient. In 2017, after the state's legislature determined that the term "marijuana" was "slang" and "rooted in racial stereotypes," Act 170 provided that all terms using "marijuana" should instead use the word "cannabis."

#18: ILLINOIS

Illinois legalized cannabis use for medical purposes in 2014. Users of medical cannabis must have been diagnosed with a "debilitating medical condition" by a licensed physician. Users may only possess a maximum of 2.5 oz of usable cannabis during a 14-day period.

Illinois has not yet legalized cannabis for adult use generally. However, in July 2016, Public Act 99-0697 reduced penalties associated with the adult use of cannabis. In August 2018, the state legislature passed a law allowing medical cannabis to be used as an alternative to opioids for some medical conditions. The law allows state residents who are given an opioid prescription to ask their physicians for medical cannabis instead. The state also recently passed legislation that allows people with debilitating medical conditions who are attending school to have limited access to cannabis infused products while at school.

Under the Compassionate Use of Medical Cannabis Pilot Program Act, Illinois set out requirements for entities to become either Dispensing Organizations or Cultivation Centers. The Department of Financial and Professional Regulation is responsible for regulating commercial cannabis activity in the state. Illinois law allows for a maximum of 22 Cultivation Centers and a maximum of 60 Dispensing Organizations to be located throughout the state. In order to become a Cultivation Center or Dispensing Organization under Illinois law, applicants must satisfy several criteria concerning the moral character of those running the business. These criteria are designed to ensure that operators of Dispensing Organizations and Cultivation Centers are compliant with rules relating to product safety concerns and prohibitions on the wider distribution of the product. Entities may be for-profit. The marketplace is highly regulated, with strict caps on the number of available licenses as well as possessory limits for end-users.

#19: MONTANA

In Montana medical marijuana was legalized in 2004 through a ballot initiative approved by 62% of state voters. In 2016, Initiative 182 expanded Montana's medical marijuana laws. Providers must obtain a license from the state's Department of Public Health and Human Services. To apply for a license, a provider must provide extensive information, including: proof

of residency, fingerprints, a signed agreement with the registered cardholder, a statement that the provider will not provide to any other non-cardholder, and the location of cultivation. There is no limit on number of licenses granted, but there is a cap on production.

Persons may apply for a medical marijuana card if they have a “debilitating medical condition”. This includes, among other conditions: cancer, severe chronic pain, epilepsy, multiple sclerosis, Crohn’s disease, and post-traumatic stress disorder.

Both the legislature and voters seem interested in expanding legal use of marijuana, evident by passage of Initiative 182 in 2016, and passage of SB 0333 in 2017. But, there is not yet enough support to legalize adult use of marijuana, evident by the failure to gather enough signatures on a proposed ballot initiative in 2018.

#20: CONNECTICUT

The “Act Concerning the Palliative Use of Marijuana,” which established Connecticut’s medical marijuana program, was enacted in May of 2012 and is codified in Conn. Gen. Stat. Ann. § 21a-408 et seq. Legislation proposing the legalization of cannabidiol upon the approval of its legal use by the FDA was proposed in 2017, but the legislation has not been signed into law.

Medical marijuana is available to qualifying patients. “Qualifying patient” is defined in Conn. Gen. Stat. Ann. § 21a-408(16). A qualifying patient is a resident of Connecticut, has been diagnosed with a debilitating medical condition, is 18 years old or older, or is an emancipated minor or has written consent from legal guardian.

Debilitating medical conditions are defined in the statutes and include cancer, glaucoma, autoimmune diseases, seizures, and more. The Department of Consumer Protection approves medical conditions that qualify patients to use cannabis for treatment. In 2018, state lawmakers expanded the medical marijuana program by adding eight new qualifying conditions to the list of debilitating medical conditions. Among these newly added conditions are migraines and facial pain.

Connecticut Regulations § 21a-408-1 et seq. and Connecticut General Statutes § 21a-408 et seq. govern “commercial” activities insofar as those activities relate to the production and distribution of cannabis for approved medical conditions. The state issues licenses to sellers, or suppliers of controlled substances outside the state that want to sell inside the state, unless those sellers/suppliers are registered with the DEA. Conn. Gen. Stat. Ann. § 21a-246.

When considering dispensary applicants, the Commissioner of the Department of Consumer Protection considers criteria such as the character/fitness of the dispensary; the location of the dispensary; the applicant’s ability to maintain adequate control against loss or theft of marijuana; the applicant’s ability to maintain knowledge about safety precautions; the extent to which applicant has financial interest in another licensee; and other criteria. Regs. Conn. State Agencies § 21a-408-14. Employees at dispensaries must also be registered with the Department, and pharmacists must have a dispensary license issued by the Department. The Commission has currently issued nine dispensary licenses.

Adult use marijuana is not legal in Connecticut, but there have been recent efforts to legalize it and the state has decriminalized use and possession of limited amounts of marijuana. In April of 2018, an adult use marijuana bill made it out of committee to the full General Assembly for consideration. The bill calls for officials from state agencies to develop a plan for the legalization and regulation of cannabis. However, the legislative session ended without the bill making any further progress. The issue is not anticipated to be further addressed until next year, unless it is raised at special session.

#21: WEST VIRGINIA

Both cannabidiol oil and medical marijuana are legal under state law in West Virginia. In 2017, the West Virginia Medical Cannabis Act (the “Act”) was signed into legislation and is now codified in W. Va. Code §§ 16A-1-1 to 16A-16-1. The Act does not become effective until identification cards are issued to patients, which begins July 1, 2019. The Bureau for

Public Health (the “Bureau”) within the West Virginia Department of Health and Human Resources is responsible for regulating the cannabis activity. Under the Act, patients suffering from specified “serious medical conditions,” such as cancer, are permitted to use cannabis. In addition, there are rules regarding how the marijuana may be dispensed; for example, pill form of marijuana is allowed but marijuana for smoking and edible marijuana is not.

Businesses that want to engage in medical commercial cannabis activities must first obtain a permit. Permits are available for growers, processors, or dispensers of marijuana. To obtain a permit, an applicant must fill out an application and pay an application fee. The application requires criminal history record checks, statements by the applicant, and a description of responsibilities, to name a few. However, the Bureau has limitations on how many permits may be issued. For example, the Bureau may not issue permits to more than ten processors of medical marijuana. Moreover, the Bureau may also implement a cap on the price of medical marijuana for up to six months at a time if it determines that the price of the medical marijuana is unreasonable.

Once a permit is obtained, the grower, processor, or dispensary faces more regulations that relate to the production, manufacturing, and/or sales of medical marijuana products. For example, individuals who operate a dispensary can dispense only in an indoor, enclosed, secure facility and may not operate on the same site as a facility used for growing or processing. In addition to following State law, permit holders must also abide by any relevant municipality ordinances, which may prohibit or limit medical cannabis organizations.

In 2018, House Bill 4345 was passed to expand the state’s marijuana laws. However, the Senate subsequently made changes, and the bill died in the House. The bill would have amended and reenacted parts of the Act, based largely on recommendations made by the state Medical Cannabis Advisory Board. For example, it would have allowed growers and processors to be dispensaries as well, among other changes.

House Speaker Tim Armstead attributed the bill’s failure to having essentially too many cooks in the kitchen. He said, “There are so many people whose ultimate goal is to legalize marijuana recreationally in all areas to try to get it into the mix and try to put that into the bill that we’re working on. Frankly that’s what killed this bill.” Despite the recent bill’s failure, Armstead still thinks the state is on course to start issuing patient and/or caregivers identification cards on July 1, 2019.

#22: PENNSYLVANIA

Pennsylvania legalized medical marijuana use in 2016 with the Pennsylvania Medical Marijuana Act (the “Act”), which is codified in 35 Pa. Cons. Stat. §§ 10231.101 to 10231.2110. The Department of Health of the Commonwealth (the “Department”) is responsible for regulating commercial cannabis activity under the Act. Patients with a “serious medical condition” who have met the requirements for certification under the Act and who are residents of Pennsylvania qualify for a medical marijuana prescription. The list of qualifying serious medical conditions is long, with seventeen conditions specifically named, including Parkinson’s disease, post-traumatic stress disorder, and autism.

Medical cannabis organizations (hereinafter “organizations”) must first obtain a permit from the Department before operating in Pennsylvania. Permits to operate as an organization are available to grower/processors and dispensaries. To obtain a permit, an organization must first fill out an application and pay the requisite application fee. Organizations that are relocating to Pennsylvania may also apply for permits.

In making the decision to grant or deny a permit, the Department will look at various matters, such as whether the applicant will maintain effective control of and prevent diversion of medical marijuana. Additionally, the Department is limited on the number of permits it can issue initially. For example, the Department may not initially issue permits to more than 25 growers/processors. The Department may also cap the price at which the medical marijuana is being sold for a period of six months at a time if it finds the prices to be unreasonable or excessive.

Once a permit is obtained, the grower/processor or dispensary faces more regulations that relate to the production, manufacturing, and/or sales of medical marijuana products. For example, a grower or processor may only grow, store, harvest, or process medical cannabis in an indoor, enclosed, secure facility that also has an electronic locking system

and surveillance, and must be located within the Commonwealth. Dispensaries can only dispense in an indoor, enclosed, secure facility, and may not be located within 1000 feet of a school or daycare center. In addition to following State law, permit holders must also abide by any relevant municipality zoning or land-use requirements.

Pennsylvania is not completely closed off from the idea of expanding its marijuana laws, but it likely will not be expanding in the near future or, at least, not until the state's medical-marijuana program is up and running. Pennsylvania's auditor general, Eugene De Pasquale, stated that taxing marijuana use could help close the state's budget gap. In fact, he estimated that Pennsylvania could bring in \$200 million a year if it regulated and taxed marijuana. However, because the medical cannabis program is not up and running yet, House Republican spokesman Steve Miskin thinks legalizing marijuana is too premature right now. Moreover, he relies on marijuana being a Schedule I narcotic, stating that "Pennsylvania and the nation is facing a serious drug problem, I'm not sure that legalizing a Schedule I narcotic is the best response."

Senate Minority Leader Jay Costa agreed with Miskin's sentiment that Pennsylvania should first get its medical marijuana program up and running before expanding to other types of marijuana. Nonetheless, House Democratic spokesman Bill Patton said they would "not close off discussion of any measures" to help close the budget gap. Governor Wolf, through his spokesman, expressed support for decriminalizing small amounts of marijuana and changing the punishment for possession of a small amount to the equivalent of a traffic citation, subject to the caveat that "the governor wants further study of the impact and implementation of full legalization on other states like Colorado before proceeding that approach in Pennsylvania."

#23: ARKANSAS

Arkansas has a complicated history of legalization. Legislative efforts in 2016 created a legalized medical marijuana program, to be run by the Arkansas Alcoholic Beverage Control Board (AABCB). However, assorted sources of opposition and court rulings prevented licenses from being issued. This was resolved by a follow-up court order on June 21, 2018.

Some of the legal questions for the industry have been answered via the regulations provided by the AABCB. These regulations include specifics on residency requirements of owners, qualifying medical conditions, business qualifications, and zoning issues. However, the delay of implementation and certain vague language in the legislation and regulations have created uncertainty. Presumably, these will be resolved as the program moves forward.

In July 2018, numerous applicants contested the commissioner's evaluation of applications submitted to obtain the state's first medical cannabis dispensary license. In response, the state selected a third party consultant to grade the 200+ dispensary applicants.

Aside from medical use and legalized industrial hemp (2017), Arkansas does not allow for sale possession or consumption of cannabis products. An adult use ballot initiative proposed in early 2018 was rejected by the governor and will not be placed on any ballot this year. There are no known efforts for legalization since.

#24: NORTH DAKOTA

North Dakota does not allow non-medical use. In 2016, the state passed SB 2344, which allows for medical marijuana use, though the provisions of the bill are not fully in force. The bill will allow patients who suffer from a "debilitating medical condition" to use marijuana to alleviate their symptoms so long as they pay a fee and provide certain personal information to the state. The definition of "debilitating medical condition" includes cancer, Crohn's disease, Fibromyalgia, and other serious conditions. North Dakota has awarded manufacturing licenses to Pure Dakota and Grassroots Cannabis and selected Keystone State Testing (doing business as Dakota State Testing) for the laboratory contract. It has yet to select the dispensaries.

The state retains stiff criminal penalties for non-medical use. For example, first offense possession is punishable by up to a year in prison and a fine of up to \$2,000. Nevertheless, the state's views towards cannabis continue to evolve in favor of legalization. 64% of North Dakotans voted in favor of medical marijuana, leading to the passage of SB 2344, and an adult-use legalization initiative is on the ballot for this November's general election

#25: ARIZONA

Arizona has not yet legalized marijuana for non-medical adult use, but medical marijuana has been legal since 2010. Physicians can prescribe "allowable amounts" of marijuana to patients with certain qualifying conditions. The allowable amount is 2.5 ounces of usable marijuana, which refers only to the "dried flowers" of the marijuana plant. A recent appellate court decision seems to conclude that cannabidiol (CBD) oil would not fall within the definition of "usable marijuana," thereby excluding it from the medical marijuana act. A ballot initiative to legalize non-medical adult use narrowly failed in 2016, and another legalization initiative failed to get enough signatures to appear on the ballot this November.

#26: DELAWARE

Effective May 13, 2011, Delaware passed a law approving the use of cannabis for medicinal purposes. Unlike other states such as Kansas, which require a 0% tetrahydrocannabinol (THC) concentration in any cannabidiol products, Delaware's definition of "cannabidiol oil" means that the oil contains at least 15% cannabidiol but no more than 7% THC.

The state has only three "licensed Compassion Centers," or medical cannabis distribution centers. The first was First State Compassion Center North, located in Wilmington, Delaware, the second was First State Compassion Center South, located in Lewes, Delaware, and the third was Columbia Cares Delaware, located in Smyrna. Another licensed Compassion Center is expected to open soon in Newark.

Despite the limited number of distribution centers in the state, Delaware's protections for qualified users are expansive. Registered qualifying patients and caregivers cannot be subject to arrest, prosecution, or denial of any right or privilege for the medical use of marijuana, as long as the patient does not possess more than six ounces of usable marijuana. Moreover, neither schools nor landlords may discriminate against persons solely for their status as registered qualifying patients or as registered designated caregivers, unless failing to do so would cause the school or landlord to lose a monetary or licensing-related benefit under federal law or regulations.

Further, unless a failure to do so would cause the employer to lose a monetary or licensing benefit under federal law, employers may not discriminate against a person in hiring, termination, or any term or condition of employment based upon the person's status as a cardholder or based upon a qualifying patient's positive drug test for marijuana. The exception is if the patient used, possessed, or was impaired by marijuana on the premises of the place of employment or during the hours of employment.

Authorized use of medical marijuana also cannot constitute the use of an illicit substance or otherwise disqualify a patient from receiving medical care, such as organ donation. Finally, a person entitled to custody of, visitation, or parenting time with a child cannot be denied their right to visitation because of their status as a registered qualifying patient. There is no presumption of neglect or child endangerment for use of medical marijuana, unless the person's actions in relation to marijuana were such that they created an unreasonable danger to the safety of the minor as established by clear and convincing evidence.

#27: MINNESOTA

Currently, only medical-use cannabis is legal under Minnesota law. Enacted on May 29, 2014, the THC Therapeutic Research Act legalized the use and possession of tetrahydrocannabinol (THC) by any Minnesota resident diagnosed with a qualifying medical condition and enrolled in Minnesota's registry program. There are nine statutory qualifying conditions as well as a kind of "catch-all" provision that may qualify a patient for a medical-use cannabis prescription.

Minnesota, compared to other states, is relatively strict when it comes to the production industry for medical-use cannabis. Only two in-state manufacturers are selected every year for the production of all medical cannabis within the state. The Minnesota Department of Health Regulations Commissioner selects the two manufacturers, basing his or her decision on six different factors.

There has also been other cannabis legislation enacted since the passage of the THC Therapeutic Research Act in 2014. On June 14, 2015, Minnesota's Industrial Hemp Development Act became effective, legalizing the growing of industrial hemp for commercial purposes. In 2016, the Minnesota Department of Health promulgated rules regarding the manufacturing and laboratory testing of medical cannabis.

The THC Therapeutic Research Act along with Minnesota's more recent cannabis-related legislation is indicative of the state's flexible approach regarding cannabis law and its recognition of the growth of all the cannabis related industries with the state.

#28: OHIO

Ohio enacted its Medical Marijuana Control Program in September 2016. Lawmakers set a deadline to have the program fully active by September 8, 2018, but the state failed to meet this requirement and the program remains dormant. Under the program, medical marijuana is treated as a Schedule II controlled substance for purposes of Ohio law. Ohio has not yet legalized cannabis for non-medical adult use.

Medical marijuana in Ohio is limited to oils, tinctures, plant material, edibles, and other forms approved by the state board of pharmacy. The board has a process by which persons may submit petitions requesting that new forms be recognized by the board for inclusion within the definition of medical marijuana. In order to use medical marijuana in Ohio, a person must be a patient whom a physician has diagnosed with a qualifying medical condition. The doctor-patient relationship must be a bona fide one. Qualifying medical conditions include AIDS, Alzheimer's disease, cancer, as well as chronic and severe pain.

Ohio law allows for the licensing of retail dispensaries, cultivation centers, testing laboratories, and processing centers. Caps on the number of licenses are contemplated by the law, but ultimate discretion in setting the caps is delegated to the state Board of Pharmacy in the case of retail dispensaries, and to the Ohio Department of Commerce in the case of cultivators, laboratories, and processors. For-profit enterprises are allowed under the law. Ohio has also implemented a requirement that at least 15% of medical marijuana-related enterprises must be granted to minority-owned businesses whose owners are United States citizens and Ohio residents.

#29: RHODE ISLAND

Rhode Island enacted the Edward O. Hawkins and Thomas C. Slater Medical Marijuana Act in 2006, which allows a patient with a "debilitating medical condition" to use marijuana. The legislation is codified at 21 R.I. Gen. Laws Ann. § 21-28.6. To qualify for a medical prescription, a patient must be a resident of Rhode Island and be diagnosed by a practitioner as having a debilitating medical condition. Under the statute, a "debilitating medical condition" includes cancer, glaucoma, post-traumatic stress disorder, and medical conditions approved by the Department of Health.

The State of Rhode Island provides licenses for compassion centers. Compassion centers are not-for-profit corporations that acquire, possess, cultivate, manufacture, deliver, transfer, transport, supply, or dispense marijuana to patient cardholders and/or their registered caregiver or authorized purchaser. In order to obtain a license for a compassion center, an interested party must apply to the Rhode Island Department of Health. However, no more than three compassion centers may hold valid registration certificates at one time.

Rhode Island's Legislature has considered a referendum that would allow the voters to decide whether legalization for adult purposes should be approved. However, the Legislature could pass legislation even without holding a referendum.

#30: OKLAHOMA

The State of Oklahoma does not allow non-medical, adult-use marijuana. On June 26, 2018, Oklahoma voters legalized medical marijuana by voting in favor of State Q 788, the Medical Marijuana Legalization Initiative. The vote passed by a 57% to 43% margin, making Oklahoma the 30th (and most recent) state to legalize medical marijuana.

Oklahoma's medical marijuana program is regulated and administered through the Oklahoma Medical Marijuana Authority, which accepts applications for potential patients and for cannabis business licenses. The current regulations governing the licensing process were established in emergency rules passed by the state's Board of Health on August 1, 2018. These emergency rules were challenged by Oklahoma citizens seeking an emergency injunction to keep the rules from being implemented. The plaintiffs alleged that the Board of Health had overstepped its authority in passing the emergency rules. A district Judge rejected the request in late August.

Currently, the Oklahoma Medical Marijuana Authority is reviewing proposed marijuana regulations. Finalization of the legislation cannot occur without full approval from the legislature, which currently is not in session. Industry proponents have pushed for a special legislative session so that lawmakers can work on finalizing the regulations.

The state previously enacted legislation allowing the use of low tetrahydrocannabinol (THC) cannabidiol for THC levels less than 0.3%. Despite the legalization of low THC cannabidiol and medical marijuana, non-medical, adult-use marijuana remains illegal in the state. The Medical Marijuana Legalization Initiative only addresses the possibility of medical marijuana becoming legal. Soon after the initiative passed, Gov. Fallin tweeted that she wanted to "make sure marijuana use is truly for valid medical illnesses. She further stated that she does not want any statute legalizing medical marijuana to open the door to "recreational marijuana in the State of Oklahoma."

#31: NEW HAMPSHIRE

New Hampshire legalized the use of marijuana for medical use in 2013. Codified in N.H. Rev. Stat. §§ 126-X:1 to 126-X:11. In order to qualify for medical marijuana a patient must be a resident of New Hampshire, have been diagnosed by a provider as having a qualifying medical condition, and possess a valid registry identification card issued pursuant to RSA 126-X:4. New Hampshire's qualifying medical conditions includes a vast amount of conditions.

New Hampshire statute provides licenses to Alternative Treatment Centers, a not-for-profit entity that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies, and dispenses cannabis and related supplies and educational materials to qualifying patients and alternative treatment centers. However, qualification to become an Alternative Treatment Center depends completely upon whether the Department of Health and Human Services determines that having additional locations for the dispensing of therapeutic cannabis is necessary to adequately and effectively meet the needs of qualifying patients.

If it is necessary, the Department may authorize the Alternative Treatment Center. Additionally, Alternative Treatment Centers have a limitation on the amount of product they can have at once. Furthermore, there can be only four Alternative

Treatment Centers at once. Nevertheless, the Department of Health and Human Services can increase this number if it is necessary to fulfill the needs of the patients.

The current perception of marijuana in New Hampshire is positive. The Democratic Party of New Hampshire made marijuana legalization part of its platform. In addition to this, the New Hampshire House of Representatives recently voted to legalize homegrown marijuana although the state Senate opted not to advance the legislation.

#32: LOUISIANA

Louisiana does not permit non-medical, adult use of marijuana. It has, however, passed SB 271, which legalizes the use of marijuana for medical purposes. While the program is not yet operational because all provisions of the bill have yet to take effect, it will eventually allow marijuana use by Louisiana patients diagnosed with a "debilitating medical condition."

Initially, "debilitating medical condition" included patients with "cancer, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, cachexia or wasting syndrome, seizure disorders, epilepsy, spasticity, Crohn's disease, muscular dystrophy, or multiple sclerosis," but SB 579 and HB 627 have since expanded the list of qualifying conditions. The state has tasked the Louisiana Board of Pharmacy with selecting 10 dispensary locations, and LSU and Southern University Agricultural Center will serve as the production facilities.

Over time, Louisiana's attitude toward cannabis has become more lenient. In 2016, New Orleans decriminalized marijuana possession in the city. Baton Rouge followed New Orleans' lead in 2018. This was followed by SB 271 being passed later in 2016, legalizing medical marijuana. SB 35 was then passed in June 2017 to protect medical cannabis industry workers from arrest and prosecution based on their work. HB 579 and 627 were then passed in 2018 to expand the definition of "debilitating medical condition."

Another bill introduced in 2018, HB 274, seeks to legalize and tax the adult use of marijuana. This indicates that both the general public and portions of the legislature are seriously considering the legalization of both medical and adult use marijuana.

#33: ALABAMA

Alabama has legalized cannabidiol (CBD) use in certain limited circumstances, but otherwise remains one of the nation's most prohibitive states when it comes to personal and commercial cannabis use. The state's criminal penalties for cannabis possession are severe and a bill that would have reduced such penalties was rejected by the Alabama Legislature in February 2018. In 2015, a comprehensive medical cannabis bill, the Medical Marijuana Patient Safe Access Act, passed the state Senate Judiciary Committee but failed to reach the Senate floor.

Carly's Law and Leni's Law, enacted in 2014 and 2016 respectively, provide an affirmative defense for possession of CBD oil for people suffering from debilitating conditions. Eligibility for a CBD prescription requires epilepsy or other neurological disorders producing serious, debilitating, or life-threatening seizures. The University of Alabama Birmingham has exclusive authorization for the prescription and use of CBD in treatment of individuals with eligible conditions. In 2016, the state enacted legislation permitting cultivation of hemp for industrial purposes.

#34: IOWA

Currently, Iowa only allows the use of cannabidiol (CBD). In 2015, the Iowa legislature passed the Medical Cannabidiol Act. Under Iowa Code Ann. 124E, a patient with a "debilitating medical condition" may use CBD. Iowa Code Ann. 124E.2(2) provides a list of medical conditions that qualify for the use of CBD. In order for a patient to qualify for a CBD license, the

patient has to: be 18 years of age, be a permanent resident of Iowa, submit a certificate written by his health care practitioner to the department of Public Health certifying that the patient is suffering a debilitating medical condition, submit an application to the department of Public Health, pay a fee, and not have been convicted of a disqualifying felony offense.

Iowa allows certain types of licenses for manufacturers and dispensaries. Under Iowa Code Ann. 124E.6, the Department of Public Health was required to issue a request for proposals to select and license up to two local medical cannabidiol manufacturers. Further, Iowa Code Ann. 124 E.13 allows the Department of Public Health to issue a license to up to two out-of-state medical cannabidiol dispensaries from a bordering state to sell and dispense cannabidiol to a patient or primary caregiver in possession of a valid medical cannabidiol registration card. In addition to manufacturers, Iowa also issues licenses to dispensaries. In order to qualify for a dispensary license, an interested party must apply with the Department of Public Health and pay the respective fees. The Department of Public Health will then conduct a thorough investigation of the interested party. There is no limit in the number of licenses the department can grant.

While the Iowa Senate is trying to expand Iowa's medical marijuana law, nothing concrete has occurred to date. The proponents of this expansion contend that Iowa's cannabis law is too strict to allow a viable program to thrive. The proposal would eliminate the 3% cap on tetrahydrocannabinol (THC). Further, the expansion would make it easier for doctors to prescribe medical marijuana products to treat pain and allow doctors to authorize its use for any medical condition which they believe it would help.

#35: MISSOURI

In Missouri, only hemp-extract products are legal, and only for those who suffer from epilepsy. The law, "Hemp Extract for Treatment of Intractable Epilepsy", was passed by legislature and signed into law in 2014. The state only allows for two total facilities state-wide to produce hemp-extract. There are currently two such facilities, so no applications for licenses are being accepted. The Missouri Department of Agriculture manages hemp extract cultivation and production.

Both the legislature and the voters seem interested in expanding Missouri laws to further legalize cannabis. In 2018, the house passed HB 1554, but it did not get a vote in the Senate. On June 1, 2018, HB 2034, which exempts industrial hemp (*Cannabis sativa L* containing no more than 0.3% tetrahydrocannabinol (THC)) from the definition of marijuana and the list of controlled substances, was signed into law. The law established an industrial hemp agricultural pilot program to be implemented by the Missouri Department of Agriculture, specifies the requirements for an applicant of an industrial hemp registration and agricultural hemp seed production permit, and makes it legal for any person who has received an industrial hemp license to grow, harvest, and cultivate industrial hemp.

HB 2034 became effective on August 28, 2018. The state's November 2018 general election will have three ballot measures – two constitutional initiatives and one statutory initiative – proposing to legalize growing, manufacturing, selling, and consuming marijuana for medical use. .

#36: NORTH CAROLINA

Currently, neither medical nor adult-use cannabis is legal within the State of North Carolina. North Carolina's stringent cannabis laws reflect the state's overall attitude disfavoring cannabis' use and possible legalization. However, on July 3, 2014, North Carolina showed a willingness to reexamine its firm stance against any type of cannabis legalization with the passage of the North Carolina Epilepsy Alternative Treatment Act – Pilot Study. In 2015, HB 766 amended the Act by removing the "Pilot Study" designation.

Under the North Carolina Epilepsy Alternative Treatment Act, amended by HB 766, an individual may legally possess and use hemp extract to treat intractable epilepsy if the individual has a current hemp extract registration card, issued by the North Carolina Department of Health and Human Services.

Since the passage of the North Carolina Epilepsy Alternative Treatment Act in 2014 and HB 766 in 2015, there has been little change in legislation regarding cannabis. However, one piece of legislation currently being debated in North Carolina's legislature is the legalization of possessing up to 4 ounce of marijuana for adult use. Senate Bill 7911 and companion House Bill 994. If enacted, this legislation would represent a dramatic shift in the North Carolina's restrictive views regarding the regulation and legalization of cannabis.

#37: WYOMING

Wyoming legalized "hemp extract" use for medicinal purposes in 2015 and legalized the farming of "industrial hemp" in 2017. While the farming statute is broad, the legal use of medicinal hemp extract is rather narrow and a hemp extract registration card is currently available only to persons who suffer "from intractable epilepsy or seizure disorders and may benefit from treatment with hemp extract." W.S. 35-7-1902(a)(iii).

Wyoming legalized the use of "hemp extract" for medicinal purposes in 2015 with the passage of House Bill 32, codified at W.S. 35-7-1901 thru 35-7-1903. "Hemp extract" is defined under the Act as "an extract from a cannabis plant or a mixture or preparation containing cannabis plant material that: (a) is composed of less than 0.3% tetrahydrocannabinol (THC) by weight, (b) is composed of at least 5% cannabidiol (CBD) by weight, (c) contains no other psychoactive substance; and (d) complies with federal definitions of industrial hemp, including the definition under [7 U.S.C. 5940], which shall apply to all samples, products, derivatives and oils." W.S. 35-7-1901(a)(ii).

In order to obtain a hemp registration card, a person must comply with W.S. 35-7-1902, which states the department "shall issue" a registration card to a person who: (i) is at least eighteen (18) years of age; (ii) is a resident of Wyoming; (iii) provides a statement to the department which is signed by a neurologist and specifies that the person suffers from intractable epilepsy or seizure disorders and may benefit from treatment with hemp extract; (iv) pays a fee; and (v) submits an application. W.S. 35-7-1902(a). Registration cards are also available to parents with minors in their care who suffer the same health conditions as mentioned above.

In 2017, House Bill 230 was passed which deemed "industrial hemp" an agricultural crop and, effective July 1, 2018, it is now legal to grow "industrial hemp" in Wyoming. See W.S. 37-7-2101 thru 35-7-2109. "Industrial hemp" is defined as "all parts and varieties of the plant *cannabis sativa* L. containing a total of no more than three-tenths of one percent (0.3%) of any combination of tetrahydrocannabinols." W.S. 35-7-2101(a)(ii). Upon meeting the requirements of W.S. 35-7-2103 and obtaining a license under the same, "a person in [Wyoming] may plant, grow, harvest, possess, process or sell industrial hemp and industrial hemp seeds." W.S. 35-7-2102. Notably, under HB 230 the definition of "marihuana" does not include industrial hemp."

The state's overall attitude towards cannabis legislation appears to be one of distaste and reluctance. The state's medical hemp extract law is extremely narrow. However, there seems to be a trend in the state towards broader legalization, as Wyoming's sweeping industrial hemp bill which just went into effect may be evidence of a trend towards broader legalization of cannabis.

There were two bills introduced in the Wyoming 2018 Budget Session. The first, 2018 WY House Bill 16, would have expanded the statutory crimes and punishments for possession of marihuana products but failed in introduction. The second, 2018 WY Senate File 23, would have increased the amount of cannabis products which could legally be possessed, and would have added exceptions to previous prohibitions. This second bill passed the Wyoming Senate, but failed shortly after being passed to the Wyoming House.

#38: WISCONSIN

In Wisconsin, neither medical nor adult cannabis use is legally permitted. Cannabidiol is legal if dispensed by a pharmacy or physician, pursuant to Wis. Stat. Ann. § 961.38. In order to possess cannabidiol, people must have a written certification that is not more than a year old, and people may not possess the cannabidiol past any expiration date listed on the certification.

Industrial hemp is an agricultural product legally permitted to be cultivated in Wisconsin, however. The Department of Agriculture, Trade and Consumer Protection is charged with establishing regulations for growing, cultivating, harvesting, and sampling industrial hemp. The Department is also charged with creating a pilot program to study the growth and cultivation of industrial hemp pursuant to Wis. Stat. Ann. § 94.55. Wisconsin Administrative Code Chapter § ATCP 22.01 et seq. is the regulatory scheme currently governing hemp cultivation.

The Department of Agriculture, Trade and Consumer Protection issues licenses to industrial hemp growers and processors. Growers and processors must pass a background check and, once approved, must register annually with the Department. All industrial hemp must be tested and all growers must obtain a fit for commerce certificate prior to any hemp being transported to a processor. All hemp must show a tetrahydrocannabinol (THC) level of 0.3 or below. Any harvested industrial hemp found in Wisconsin without a fit for commerce certificate is subject to seizure and destruction at the licensee's expense.

There has been a push to legalize marijuana for adult use in Wisconsin. Legislation was proposed in 2017 that would allow cannabis to be used to treat certain medical conditions, but the legislation ultimately failed. In November 2018, Milwaukee County voters will be asked whether or not they feel marijuana should be legalized for adult use. Twelve other counties will vote on an advisory referendum regarding medical cannabis.

These referenda do not have the force of law. The questions are asked of voters in these 16 counties (which collectively contain over half of the residents in the state) to gather a measure of public opinion that can be shared with state legislatures to impact future laws. A recent poll conducted in Wisconsin found that 59% of residents support legalizing marijuana, so there is some indication that a majority of voters will support marijuana when polled in November.

#39: INDIANA

The State of Indiana does not allow the use of either adult-use marijuana or medical marijuana. Further, the state only recently allowed the use of low-tetrahydrocannabinol (THC) cannabis oil when, on February 21, 2017, the House voted unanimously to allow patients suffering from epileptic seizures to buy a non-intoxicating form of cannabis oil that contains 0.3% or less from licensed distributors across the state.

It would seem like the state might continue to stay marijuana-free for some time. However, inspired by the recent legalization of medical marijuana in [Oklahoma](#), Indiana Republican State Representative Jim Lucas is sponsoring a bill in the upcoming session that would legalize medical marijuana as early as next year. Lawmakers in Indiana will convene a summer study committee to examine the issue. Those hearing dates have not been set yet.

#40: KENTUCKY

Kentucky is a fairly stereotypical non-legalization state. Kentucky Revised Statute Section 218A.050 (3) explicitly forbids possession of any cannabinoid-containing substance. The state does have legalized hemp, made so in 2014 (SB 124). The industrial hemp program is run by the Kentucky Department of Agriculture. However, very little guidance is given on this program, and the program appears underdeveloped.

There seems to be growing interest in Kentucky for legalizing cannabis for medical or adult use. In March of 2018, a bipartisan legislative effort in the Kentucky House of Representative produced HB 166, an act to legalize medical cannabis. Within a month, legislative gridlock sunk any chance for a vote on the bill, but another bipartisan group of lawmakers have subsequently started writing a new bill that would allow medical cannabis to be sold to qualified patients in the state.

The proposed bill would establish a new state agency, named the Department of Cannabis Administration, to regulate the medical cannabis program. The proposal would prohibit the sale of cannabis to out-of-state residents. In the past month, multiple hearings have been held by state legislatures to address the proposal and to provide a forum for both supports and critics.

#41: SOUTH CAROLINA

South Carolina has not legalized marijuana for adult or medical use, but it has legalized cannabidiol in certain, limited situations. Known as Julian's Law, licensed physicians in South Carolina can prescribe cannabidiol (CBD) oil for patients suffering from certain forms of epilepsy. The CBD oil must contain at least 98 percent cannabidiol and no more than 0.9% tetrahydrocannabinol (THC). Eligible conditions include Lennox-Gastaut syndrome, Dravet syndrome, or any other form of refractory epilepsy that is not adequately treated by traditional medical therapies. Although there have been attempts to legalize medical marijuana dating back to 1980, recent efforts have proved unsuccessful.

#42: TENNESSEE

The State of Tennessee does not allow either adult-use marijuana or the use of medical marijuana. However, the state does allow cannabidiol (CBD) that contains no more than 0.9% tetrahydrocannabinol (THC). There have been recent fights throughout the state to pass a bill that would allow the legal use of medical marijuana. Senator Steve Dickerson was the sponsor of a bill earlier this year that would have legalized the medical use of marijuana. Dickerson killed the proposal on April 3, 2018, because he felt he simply did not have the votes. The *Times Free Press* reported on June 27 that Representative Bryan Terry and Senator Steve Dickerson are working on a bill that would legalize medical marijuana.

On September 27, 2018, the Department of Health issued an advisory to residents about the risks of using marijuana and hemp. The advisory stated there is insufficient evidence to show any forms of cannabis, including hemp, are safe and effective medications. It also stated marijuana is addictive and that 1 in 11 adults who use marijuana become addicted.

Tennessee's Department of Health also differs from the position taken by many states (such as [Illinois](#)) which view cannabis as a strong alternative to opioids. The September 2018 advisory stated that the number of state-funded substance abuse treatment services in Tennessee with marijuana as the primary substance exceeded the number where heroin or cocaine was the primary substance. The statistics provided in the advisory only covered the number of admissions and did not provide information on the severity of treatment or the length of the patient's stay.

#43: UTAH

Currently, neither medical nor adult-use cannabis is legal within the State of Utah. Utah's stringent cannabis laws reflect the state's overall attitude disfavoring cannabis' use and subsequent legalization. However, on March 23, 2018, Utah showed a willingness to reexamine its firm stance against cannabis legalization of any kind with the passage of several cannabis related bills. Those bills include Utah's Cannabidiol Product Act and its Medical Cannabis Policy.

First, Utah's Cannabidiol Product Act, or Senate Bill 130, authorized the cultivation, production, and possession of hemp and the sale and use of cannabidiol (CBD) products under certain circumstances. According to Utah's Department of Agriculture and Food, its role will be to ensure CBD products being sold are free from harmful substances and are labeled accurately to protect consumers from erroneous information.

Utah also passed its Medical Cannabis Policy, or House Bill 195. This policy created a "right to try" cannabis-based treatment, or CBD treatment, for terminally ill patients. Such patients are not subject to criminal penalties for possessing and using cannabis in medical dosage form in compliance with the legislation.

Utah's November 2018 ballot will contain an initiative, Proposition 2, which would legalize medical marijuana for individuals with qualifying conditions. Utah Gov. Gary Herbert recently expressed his support for medical marijuana but believes legalization should come through the state's legislature not by ballot initiative.

#44: VIRGINIA

Virginia does not allow adult use of marijuana or medical marijuana, though it does allow for the use of cannabidiol (CBD). VA Code Ann. § 18.2-250.1 was amended in 2017 to add § 54.1-250.1, which allows for CBD use. A physician licensed by the Board of Medicine may complete a written certification on the form provided by the Office of the Executive Secretary of the Supreme Court developed in consultation with the Board of Medicine. That law was broadened in 2018 via HB 1251 to allow a physician to recommend CBD for any condition.

In 2017, Virginia stopped automatically suspending a person's driver's license for six months following a conviction for marijuana possession. This decision, along with the legalization of medical CBD use, reflect the state's increasingly relaxed stance toward marijuana. However, in 2018, HB 1063, a decriminalization bill, was voted down by a subcommittee.

The lack of decriminalization and absence of a comprehensive medical marijuana law indicate that Virginia still has a relatively conservative stance. The state does not appear likely to legalize adult-use marijuana anytime soon, though it may consider medical marijuana legislation within a few years.

#45: TEXAS

In 2015, the Texas Legislature passed the Texas Compassionate Use Act. Codified under Tex. Health & Safety Code Ann. § 481.111, a patient with intractable epilepsy is exempt from prosecution for possession of low-tetrahydrocannabinol (THC) cannabis. In order for a patient to qualify for a medical prescription of cannabidiol (CBD), the patient must be a resident of Texas, the patient's physician has to certify to the Department of Public Safety that: the patient suffers intractable epilepsy, the risk of using CBD is reasonable in light of the potential benefit for the patient, and that a second physician concurs that it is reasonable to prescribe CBD to the patient in light of the potential benefit to him or her. The Texas Compassionate Use Act is one of the most restrictive medical marijuana legislations in the country.

While the Texas Compassionate Use Act is very limiting, some change might be on the horizon. Recently, the Republican Party of Texas endorsed marijuana legislation. The Republican party voted to approve platforms endorsing marijuana decriminalization, medical cannabis, and industrial hemp. They are also calling for a change in cannabis's classification by the federal government. This is important because the Republican party holds most of the elected positions in the Texas' state government.

#46: GEORGIA

Georgia legalized the medical use of low tetrahydrocannabinol (THC) oil in 2015 with the passage of House Bill 1, known as the "Haleigh's Hope Act." The Act was subsequently amended by SB 16, effective July 1, 2017, which changed the definition of "low THC oil" and expanded the list of conditions eligible for use of low THC oil.

Georgia last modified the Act on May 3rd, 2018, with the passage of House Bill 65. House Bill 65 created a "Joint Study Commission on Low THC Medical Oil Access" to replace the "Georgia Commission on Medical Cannabis" which ended when its authorizing legislation was automatically repealed in 2016 via a sunset clause in Ga. Code Ann. 31-50-5. House Bill 65 also added two additional conditions to the list of fourteen conditions enumerated in 31-2A-18(a)(3) which satisfy the medical need requirement in order to obtain a registration card under 31-2A-18(d).

The Georgia statutory provisions governing low THC oil are: 16-12-190 thru 16-12-191; 31-2A-18 thru 31-2A-19; 31-51-1 thru 31-51-10; and 51-1-29.6. As stated in these provisions and the authorizing Act, these provisions repeal any conflicting state laws, provisions, or regulations. At present, the Low THC Oil Research Program, authorized in 31-51-1 thru 31-51-10, stands to be repealed on July 1, 2020 pursuant to 31-51-10.

HB 65 created a ten person study commission to evaluate how to improve access to cannabis oil. A final report with recommendations for legislation is due by the end of 2018. In the meantime, the state's laws allow medical marijuana patients to use and possess medical marijuana. However, since the existing laws do not permit cultivation or dispensing medical marijuana, it is a challenge for patients to access their medicine.

#47: MISSISSIPPI

In Mississippi, cannabidiol (CBD) oil for people with a debilitating epileptic condition or related illness became legal in 2014 with the passage of "Harper Grace's Law" (MS Code § 41-29-136 (2014)). Users must have a physician's orders and can obtain the CBD oil only from the University of Mississippi Medical Center. CBD is produced by only two federally regulated entities at University of Mississippi and Mississippi State University.

The State legislature seems willing to lessen the punishments for possession of marijuana and CBD (SB 2169), but unwilling to legalize it. Three bills were introduced in 2017-2018, but all three died in committee. Similarly, voters in Mississippi seem not ready to legalize cannabis, as there were two initiatives in 2016, but neither could gather enough signatures to be on the ballot.

Proponents of medical cannabis reforms are already preparing for an initiative on the 2020 ballot. State Rep. Joel Bomgar (Rep.) is one of the proponents of the bill, known as Medical Marijuana 2020, and is a member of its steering committee. The initiative calls for a business-friendly amendment to the Mississippi Constitution that would create an open market for the adult use cannabis industry in the state.

#48: SOUTH DAKOTA

South Dakota has not legalized marijuana for either medical or adult use. However, cannabidiol was legalized in 2017 by excluding FDA-approved cannabidiol from the definition of marijuana. Further, the definition of marijuana does not include hemp ("fiber produced from mature stalks of the plant"). According to the Marijuana Policy Project, a petition to legalize and regulate medical cannabis has gathered enough signatures to appear on the ballot in 2018. There does not appear to be any pending legislation relating to either medical use or adult use marijuana.

#49: KANSAS

Kansas is among the states that have not legalized the use of cannabis for medical purposes. In May 2018, however, the state passed a law updating its definitions of substances included in schedules I, II, and III of the uniform controlled substances act, and Kansas's definition of "marijuana" now does *not* include cannabidiol (CBD). Yet Kansas law still classifies tetrahydrocannabinol (THC) as a schedule I substance, so in Kansas, any legal CBD must contain 0% THC.

Kansas imposes harsh criminal penalties for possession of marijuana or THC, with any amount of possession constituting a class B misdemeanor punishable by up to six months in jail and a fine of up to \$1,000. Accordingly, because some CBD products that are used for medical purposes do contain THC, Kansans are limited in types of CBD products they may use.

#50: IDAHO

Despite bordering three states ([Nevada](#), [Oregon](#), [Washington](#)) that have legalized adult-use marijuana, Idaho has not legalized medical marijuana use, nor has it legalized adult-use of marijuana. Moreover, cannabidiol use is also not legal in Idaho. Idaho's most recent movement towards accepting medical marijuana was in 2015. In 2015, the Idaho legislature introduced Senate Bill 1146. SB 1146 would have legalized cannabidiol use, which may help relieve seizures for children with epilepsy. The bill passed both the house and senate. However, Idaho Governor C.L. "Butch" Otter vetoed the bill. He stated that while he sympathized with families affected by epilepsy, the bill "asks us to look past the potential misuse and abuse with criminal intent."

The future of marijuana legislation in Idaho is unclear as Governor Otter is not running for re-election. The two contenders in this November's gubernatorial race, Democratic candidate Paultette Jordan and Republican Brad Little, exemplify this uncertainty and contrasting public opinion. Jordan has expressed her support for full marijuana legalization, whereas Little, the current state lieutenant governor, favors limited cannabidiol (CBD) access but opposes full marijuana legalization.

#51: NEBRASKA

Nebraska does not allow adult or medical marijuana use. It does seem to be moving toward legalizing medical marijuana, but progress is glacial. In 2016 and 2017, medical marijuana bills were introduced, but the first was quashed by filibuster and the latter was not voted on.

Nebraska has decriminalized marijuana possession for first time offenders, but retains mandatory minimums that force judges to sentence non-violent offenders according to the minimum rather than the judge's discretion. The public, however, appears ready for medical marijuana, though perhaps not for adult use. Sixty percent of Nebraskans believe that medical marijuana should be legalized.

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