

Marijuana Use in Senior Care Facilities

Question

Thirty-seven states and four territories allow for the medical use of cannabis products (marijuana) as of February 2022.¹ Does this mean that senior care facilities have to allow residents who wish to use marijuana to do so, if it is legal in their state?

Answer

No. Senior care facilities are not required to allow residents to use medical or recreational marijuana because it is still illegal under federal law. The U.S. Food & Drug Administration (FDA) still classifies marijuana as a Schedule I substance under the Controlled Substances Act (CSA). The substances in this classification are indicated to have a high potential for abuse, no currently acceptable medical use for treatment in the United States, and a lack of accepted safety for use under medical supervision.² Therefore, physicians are not allowed to prescribe Schedule 1 substances.

Even though states may permit medicinal and/or recreational marijuana sales, senior care facilities that accept Medicare and Medicaid funding must comply with certain federal standards and laws or risk losing funding. Under the Social Security Act, individuals or entities that are convicted of felonies related to the manufacture, distribution, prescription, or dispensing of a Schedule 1 substance could be excluded from participating in federal healthcare programs.

Further, the U.S. Department of Housing and Urban Development (HUD) prohibits senior care facilities from admitting new residents who use medical marijuana, but the facility may use its discretion to address existing residents who use medical marijuana. Additionally, HUD has determined that reasonable accommodation requests for the use of medical marijuana under the Fair Housing Act are not allowed.³

If a facility does not participate in such federal programs, it's important to review state law to determine whether any provisions exist that protect patients from discrimination on the basis of using medical marijuana.

Senior care facilities should examine their state laws and regulations regarding medical marijuana. Then the facility should create or update its policies and procedures on marijuana to protect and best suit itself and the residents' needs. If the facility decides to allow medical marijuana, a policy should be drafted that outlines the protocols for storage, administration, and procurement, as well as any other pertinent situations that may result from allowing its use. Some of these issues may not be addressed in state laws or regulations.

More About Marijuana

According to Aging.com, four of five doctors approve of medical marijuana and more than 90 percent of patients that use medical marijuana say that it has helped treat their conditions.⁴

Marijuana can be smoked, consumed via foods and drinks, vaporized, rubbed onto one's skin, and taken in pill form. It is used in many ways to help patients manage the negative effects resulting from chronic illness, cancer, Alzheimer's disease, joint pain, nerve damage, anxiety/mental health disorders, eating disorders, and glaucoma.

Resources

- [Aging.com: The Complete Guide to Medical Marijuana and CBD](#)
- [LeadingAge: Medical Marijuana FAQs: What Providers Need to Know if Legal in Their State](#)
- [National Conference of State Legislatures: State Medical Cannabis Laws](#)
- [Senior Housing News: Senior Living Providers Can No Longer Blow Off Pot Policies](#)
- [U.S. Food & Drug Administration: FDA Regulation of Cannabis and Cannabis-Derived Products, Including Cannabidiol \(CBD\)](#)

Endnotes

¹ National Conference of State Legislatures. (2022, February 3). *State medical cannabis laws*. Retrieved from <https://www.ncsl.org/research/health/state-medical-marijuana-laws.aspx#3>

² U.S. Food & Drug Administration. (2021, January 22). *FDA regulation of cannabis and cannabis-derived products, including cannabidiol (CBD)*. Retrieved from <https://www.fda.gov/news-events/public-health-focus/fda-regulation-cannabis-and-cannabis-derived-products-including-cannabidiol-cbd>

³ Leading Age. (2018). *Medical marijuana FAQs: What providers need to know if legal in their state*. Retrieved from www.leadingage.org/sites/default/files/Medical%20Marijuana%20FAQs-%20Final.pdf; U.S. Department of Housing and Urban Development. (2011, January 20). *Memorandum: Subject: Medical use of marijuana and reasonable accommodation in federal public and assisted housing*. Retrieved from [https://www.nhlp.org/files/3.%20KanovskyMedicalMarijunanaReasAccomm\(012011\).pdf](https://www.nhlp.org/files/3.%20KanovskyMedicalMarijunanaReasAccomm(012011).pdf)

⁴ Aging.com. (2019). *The complete guide to medical marijuana and CBD*. Retrieved from <https://aging.com/the-complete-guide-to-medical-marijuana-for-seniors/>

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