

Medical Marijuana Information
University of Arkansas System Division of Agriculture

The Arkansas Medical Marijuana Amendment of 2016 (“MMA”) legalized medical use of marijuana under State law for individuals who have a written certification of a qualifying medical condition from a physician and have registered with the Arkansas Department of Health (“qualifying patients”). Marijuana remains illegal under Federal law. In addition, there are limits on the use and possession of medical marijuana by qualifying patients under State law. This information is being provided as a guideline for responding to questions from employees and students about the use and possession of medical marijuana within the University of Arkansas System (“University”) and specifically for the Division of Agriculture (“Division”). Any questions that are not addressed in this guideline may be referred to the Division’s Legal Counsel or the System’s Office of General Counsel.

- I. The Division is subject to and will continue to comply with the Drug Free Workplace Act of 1988 and the Drug Free Schools and Communities Act Amendments of 1989. The Division will also comply with applicable state laws and regulations.
- II. Medical marijuana in any form shall not be possessed or used on any Division-controlled property, whether owned or leased, or at any Division-sponsored events or activities.
- III. The Division shall continue to provide employees with drug-free workplaces and the University shall continue to provide students with drug-free schools.
 - A. All employees are prohibited from possessing, smoking, ingesting or otherwise engaging in the use of, or being under the influence of, marijuana or other controlled substances on the premises, during working hours, or while operating a vehicle or equipment owned or leased by the University. Employees who violate the drug-free workplace policy remain subject to disciplinary action, up to and including termination of employment.
 - B. Any employee may be required to submit to drug testing if there is a reasonable suspicion the employee is impaired from marijuana or other substances while on duty. Current testing does not allow a medical review officer to state with any degree of medical certainty whether an individual is impaired by marijuana. Signs of impairment include, but are not limited to:
 1. Observed impairment of job performance;
 2. Abnormal conduct or behavior;

3. A serious workplace accident or number of minor workplace accidents;
4. Carelessness or disregard for safety;
5. Physical signs that are inconsistent with the employee's usual appearance or behavior such as:
 - a. Slurred speech;
 - b. Difficulty walking or standing;
 - c. Unusual appearance or odors;
 - d. Lethargy, drowsiness, confusion, or unusual behavior;
 - e. Impaired coordination, dexterity, or balance.

C. Employees in safety-sensitive positions remain subject to pre-employment, random and for-cause drug testing. Employees in safety-sensitive positions who test positive for marijuana or other controlled substances are subject to disciplinary action, up to and including termination of employment. Safety-sensitive positions include any position designated in writing by an employer as a position in which an employee under the influence of marijuana constitutes a threat to the employee, co-workers or members of the public. Examples of safety-sensitive positions may include, but are not limited to positions where employees:

1. Operate, repair, maintain, or monitor heavy equipment, machinery, aircraft, motorized watercraft, or motor vehicles.
2. Work with hazardous or flammable materials, controlled substances, or medicine; or

D. In the event an employee in a safety-sensitive position tests positive for marijuana and is a qualifying patient, the Division's Legal Counsel should be consulted (who shall contact and consult with the System's Office of General Counsel) before action is taken.

E. For employees in non-safety-sensitive positions, a positive drug test cannot be the sole basis for determining that the employee was impaired while on duty. Other objective signs, such as those noted in Paragraph B above, must also be present.

F. Any employee with a professional license who is disciplined for being impaired while on duty will be reported to the appropriate licensing board as required by law.

IV. The Division shall not discriminate against an applicant or employee in hiring, termination, or any condition of employment based on past or present status as a qualifying patient for medical marijuana.

- A. Applicants should not be asked about their status as a qualifying patient for medical marijuana during the hiring process.
 - B. In the event an employee discloses his or her status as a qualifying patient for medical marijuana, the supervisor should consider whether there is a need for a reasonable accommodation or a need to initiate the interactive process. This decision should be based on the employee's underlying medical condition rather than his/her status as a qualifying patient.
- V. Employees who are injured on-the-job will remain subject to post-accident drug testing policies. In the event an employee who is also a qualifying patient has an on-the-job injury and tests positive for marijuana, the employee's eligibility for benefits will be determined by the Workers' Compensation Commission in accordance with its rules and regulations.
- VI. No student shall be penalized for his/her status as a qualifying patient. Such students may not use or possess medical marijuana on campus or at any Division (or campus) sponsored event or activity. Students who are enrolled in courses where safety-sensitive tasks are performed are subject to for-cause and random drug-testing and are prohibited from participating in any safety-sensitive task while under the influence of marijuana. Enrolled students who are under the influence of medical marijuana on campus or at any educational site or while participating in any University or Division event or activity will be subject to discipline according to the applicable student conduct policy.
- VII. The Medical Marijuana Commission has awarded licenses to operate medical marijuana dispensaries and cultivation facilities. The Arkansas Department of Health (ADH) published a written certification form on July 1, 2017, that individuals are required to submit with an application to obtain a registry card. It is estimated that medical marijuana will be available to qualifying patients in mid 2019.

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