

Medical Marijuana and Workers Compensation in PA

We are all now aware of a worsening opioid crisis in America. Typically, the only choice for pain management is a combination of medications including opioids, muscle relaxants, injections, anti-inflammatories, and a series of other drugs for everything ranging from a muscular injury to depression. Unfortunately, many of these medications do not work well when taken together. In addition, prolonged use can cause patients to develop a tolerance to certain medications which reduces their effectiveness. Injured workers need access to pain management alternatives that do not involve the risk of long-term opioid use.

Increasingly both the legislature and the public at large are recognizing the need for alternative medicine, and the most wildly discussed option is medical marijuana. Both Pennsylvania and New Jersey have medical marijuana programs. Patients can qualify for medical care which enables them to purchase medical-grade marijuana in a variety of forms.

Cannabis therapy goes far beyond the stereotypical concept of smoking a "joint". It can be utilized in a variety of edibles, vape oil, ointments, pill form, and in New Jersey the actual flowers. In addition, cannabis can come in "CBD-only" form, eliminating the substance THC, thereby avoiding some of the side effects traditionally associated with "getting high". For instance, CBD oil is the preferred method of cannabis for use in infants and children suffering from seizure disorders. A variety of cannabinoids exist that treat a range of problems from chronic pain to irritable bowel,

anxiety, and sleep deprivation.

In Pennsylvania, the law lists 17 conditions for which a patient may be treated with medical cannabis, including autism, PTSD, cancer, HIV/AIDS, seizures, and severe chronic pain. With the wide array of potential patients, other areas of the law must evolve to afford protections to state-compliant cannabis patients.

In Pennsylvania in May of 2018, Governor Wolf approved eight medical schools as Certified Academic Clinical Research Centers for the medical marijuana program. Moreover, the list of serious illnesses that marijuana may treat has been expanded to include neurodegenerative diseases, terminal illness, dyskinetic and spastic movement disorders, and opioid-use disorders. These steps mark important progress in the Pennsylvania Medical Marijuana Program which was signed into law in April of 2016.

Medical professionals are increasingly available in both Pennsylvania and New Jersey to help counsel injured workers on the appropriate use of cannabis as an alternative treatment. However, there are specific rules regarding when and how an individual can utilize medical marijuana while working.

Having said all of that, the use of medical marijuana, for work-related injuries, is an interesting issue. In Pennsylvania, an individual with a “serious health condition” may obtain medical marijuana from a licensed dispensary as long as the individual has the proper certification. However, Workers’ Compensation insurance carriers are not legally obligated to pay for medical marijuana even if the injured worker is utilizing it to treat their work injuries. From a

logical standpoint, this make no sense because it's cheaper to pay for medical marijuana rather than narcotic medication. In addition, most narcotic medication is highly addictive when compared to medical marijuana. The major issue is that although medical marijuana is legalized in Pennsylvania, it is still considered illegal by the Federal government. As a result, the Workers' Compensation carriers in Pennsylvania will not take a chance of facing criminal penalties from the Federal government by paying for medical marijuana. However, this issue is constantly evolving. There are several cases in the Pennsylvania Workers' Compensation system currently being argued relating to the payment for medical marijuana by the Workers' Compensation carriers. In addition, in light of the new guidance from the president to his attorney general and the department of Health and Human Services calling for the review of medical marijuana and how it is categorized under Federal law, could result in further changes, which may benefit the injured workers in Pennsylvania.

As you can see, these are complicated issues and therefore, having an attorney to help guide you through the system is important. Please contact Martin Law and one of our attorneys would be happy to answer your questions and help walk you through the process.