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WHAT EMPLOYERS NEED TO KNOW ABOUT ALABAMA'S MEDICAL MARIJUANA LAW

On May 17th, Governor Ivey signed Alabama's Medical Marijuana law, joining more than 30 other states which permit physician prescribed use of marijuana for certain medical conditions. Although the new act decriminalizes prescribed use under state law, it remains illegal under federal law.

The new law has prompted many employers to consider whether to revise their own policies on off-duty marijuana use to allow medical use. Although employers **can** accommodate prescribed use, they are not **required** to do so under the new law. In fact, the law has several provisions which specifically protect employers' existing rights to prohibit drug use:

- Employers are not required to permit marijuana use at all or to accommodate an employee's use of medical marijuana (including altering job duties);
- Employer-provided health coverage is not required to cover the cost of prescription marijuana;
- An employer may take an adverse job action against an employee who uses marijuana, even with a prescription, including refusal to hire, fire, and discipline – regardless of the lack of impairment on the job;
- An employer may maintain its drug testing policy, including a drug free workplace program and DOT-compliant testing programs;
- Employers can adopt a policy requiring employees to notify the employer that they possess a medical cannabis card;

- The Act does not alter the worker's compensation premium discount for employers with drug free workplace programs or the employer's right to deny benefits based on a positive test;
- An employee who is discharged from employment because of use of medical cannabis, or refusal to submit to or cooperate with a drug test, is legally conclusively presumed to have been discharged for misconduct and therefore disqualified from unemployment benefits;
- The Act specifically states that it does **not** create a basis for filing a lawsuit over an employer's adverse action against an employee for using physician prescribed marijuana.

The Act went into effect on the governor's signing.

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