



Act 16: Guide for Employers & Employees

The Pennsylvania Medical Marijuana Act 16: Guide for Employers & Employees

The Pennsylvania Medical Marijuana Act (Act 16) protects registered patients from unfair discrimination in the workplace without requiring employers to violate federal law. It also prohibits patients from participating in certain high-risk activities while using medical marijuana and allows employers to ensure a safe workplace.

- Employers may not discriminate against patients for their *status* as registered patients.
- Patients who have more than 10 nanograms* per milliliter of THC in their blood in serum may not operate or be in physical control of 1) chemicals that require a federal or state permit or 2) a high-voltage electricity or other public utility.
- Employers do not have to “make any accommodation of the use of medical marijuana on the property or premises of any place of employment.”
- Employers may discipline employees for “being under the influence of medical marijuana in the workplace or for working while under the influence of medical marijuana when the employee's conduct falls below the standard of care normally accepted for that position.”
- Employers do not have to take any action violating federal law.
- Employers may prohibit patients who are employees from performing mining or any other “employment duties at heights or in confined spaces” while under the influence of marijuana.
- Employers may prohibit patients who are employees from performing any task which the employer deems life-threatening to the employee or other employees while under the influence of marijuana. In addition, “[t]he prohibition shall not be deemed an adverse employment decision even if the prohibition results in financial harm for the patient.”

*Nanograms per milliliter of THC (ng/mL) vary significantly depending on what fluid is being tested — 10 ng/mL in serum is about the equivalent of about 5 ng/mL in whole blood. While some patients who consume significant amounts of cannabis may test above 10 ng/mL in blood serum many hours after consuming cannabis, most patients — particularly those who use only a small amount of cannabis — will not. [\[1\]](#)

[\[1\]](#) See, i.e.:

<http://www.canorml.org/healthfacts/drugtestguide/drugtestdetection.html#blood>. “THC peaks rapidly in the first few minutes after inhaling, often to levels above 100 ng/ml in blood plasma. It then declines quickly to single-digit levels within an hour. High THC levels are therefore a good indication that the subject has smoked marijuana recently. THC can remain at low but detectable levels of 1-2 ng/ml for 8 hours or more without any measurable signs of impairment in one-time users. In chronic users, detectable amounts of blood THC can persist for days. In one study of chronic users, residual THC was detected for 24 to 48 hours or longer at levels of 0.5 - 3.2 ng/ml in whole blood (1.0 - 6.4 ng/ml in serum).”