



Medical and Recreational Marijuana in California

Many people with cancer have found marijuana (also known as cannabis) to be useful in treating the pain, nausea, and other side effects associated with cancer and cancer treatment. It is important to understand that possession, use, and transportation of marijuana is still illegal under federal law.¹ We suggest you read CLRC's National Medical Marijuana handout for more information about federal laws and medical marijuana.² This handout explains California state laws regarding marijuana possession and use.

How long has marijuana been legal in California?

In November 1996, the use of *medical* marijuana in California was decriminalized through Proposition (Prop) 215. In 2015, additional laws, together known as the Medical Cannabis Regulation and Safety Act (MCRSA) were passed. Finally, in November 2016, Prop 64 passed, making it legal in California for adults to use marijuana *recreationally* under the Adult Use of Marijuana Act (AUMA), effective January 1, 2018.

When did it become legal to use marijuana without a medical recommendation?

Recreational marijuana sales in California began January 1, 2018. However, because medical marijuana dispensaries have to apply for and receive specific licensing from the state to sell recreational (non-medical) marijuana, it may take a while before recreational marijuana becomes available at all dispensaries. Once dispensaries are licensed, they will be able to sell recreational marijuana to anyone (not just California residents) with an ID showing they are 21 and over— just like buying alcohol from a bar or liquor store. Dispensaries will still continue to sell medical marijuana to patients 18 or over with physician recommendations.

How much marijuana can a person legally possess in California?

California state law permits adults 21 years of age and over who are using marijuana recreationally to do the following:

- Possess up to **28.5 grams** (one ounce) of cannabis or **four grams** of concentrated cannabis.
- Possess, plant, cultivate, harvest, dry, or process up to **six cannabis plants** at a time in your own residence. If the living plants produce more than 28.5 grams of cannabis, the excess must be kept within a private residence or if outdoors on the grounds of a private residence, locked, and in a place not visible by the public.

¹ Marijuana use is still subject to federal prosecution, regardless of state law.

² CLRC National Medical Marijuana handout: <http://cancerlegalresources.org/wp-content/uploads/sites/3/2017/07/Medical-Marijuana-2017.pdf>



- A city and/or county can make it illegal for you to grow marijuana plants *outdoors* at your private residence, but may not completely prohibit you from cultivation *indoors*.

The new recreational marijuana law does NOT permit you to do the following:

- Smoke or ingest cannabis or cannabis products in public places.
- Possess an open container of cannabis or cannabis products in a vehicle while driving or riding as a passenger in a vehicle, boat, aircraft.
- Smoke or ingest cannabis or cannabis products while *driving, operating, or riding as a passenger in* a motor vehicle, boat or other vehicle used for transportation.

The new law does not repeal or affect any other laws that make it illegal to drive while impaired, so you can still get a DUI for driving under the influence of marijuana. It is also illegal to drive with an open container of marijuana or marijuana products, except in limited circumstances for patients with a physician's recommendation for medical marijuana. We recommend you speak with a criminal law attorney for questions about transporting marijuana.

Public and private employers may still maintain a drug free workplace. Employers are not required to let you use marijuana in the workplace, and they can still have policies prohibiting the use of marijuana by employees.

How much will recreational marijuana cost?

The cost of recreational marijuana will vary greatly depending on the type of marijuana product you purchase and in which city or county in California you purchase the product. Beginning January 1, 2018, recreational marijuana and marijuana products are subject to a new 15 percent state "excise tax." This tax is in addition to a new "cultivation tax" that will be passed on to purchasers. In addition to excise and cultivation taxes, state and local taxes are applied to the final price. Local taxes vary by county, but customers can expect to pay up to 45% more for recreational marijuana than they had previously spent on medical marijuana products. Proceeds from these new taxes will go to fund youth programs, environmental protection, and law enforcement.

You can still get *medical* marijuana with a physician's recommendation and there are good reasons for maintaining a recommendation if you have a serious medical condition.

While the new law now allows people to buy and use *recreational* marijuana, there are still different rules for *medical* marijuana that might make maintaining a medical recommendation preferable. In California, if you have a serious medical condition, including cancer, you may receive a physician's "recommendation" to buy, possess, and use medical marijuana. Medical marijuana patients 18 years of age or over with a valid physician's recommendation may purchase medical marijuana from licensed dispensaries. Primary caregivers to people with serious illnesses may also buy and possess medical marijuana.

However, the quantity of marijuana you may legally possess as a medical marijuana patient is much greater than the quantity allowed for recreational users. Under California's Medical Marijuana Program, a qualified patient (or his/her primary caregiver) may possess no more than eight ounces of dried cannabis, and no more than six mature or 12 immature cannabis plants, *or*

whatever amount of cannabis is consistent with the patient's needs according to the patient's physician's recommendation.

Additionally, medical marijuana patients can apply for a Medical Marijuana ID (MMID) card³ through the county health department where they live. A MMID card can cost up to \$100 to buy initially or renew, though fees for the cards vary by county. Medi-Cal recipients can get a 50 percent discount on MMID cards. The MMID card helps law enforcement verify that the cardholder is legally allowed to possess the amounts of marijuana outlined above. Those who present valid MMID cards are also exempt from paying state sales and use taxes at dispensaries. Local governments can still charge taxes on medical marijuana, which means that even medical marijuana prices will increase. The medical marijuana program does not require health insurance providers to cover the medicinal use of marijuana, so your insurance will not be paying for marijuana any time soon.

For more information about medical/recreational marijuana nationwide, please review the CLRC's *National Medical Marijuana* handout.

Further information on Marijuana Use in California:

Medical Use Cannabis Fact Sheet from the CA Dept. of Public Health:

<https://www.cdph.ca.gov/Programs/DO/letstalkcannabis/CDPH%20Document%20Library/October%202017%20Update/CDPH-Medicinal.pdf> (Updated October 17, 2017)

What's Legal for Adult Use? Fact Sheet from the CA Dept. of Public Health:

<https://www.cdph.ca.gov/Programs/DO/letstalkcannabis/CDPH%20Document%20Library/October%202017%20Update/CDPH-Legal.pdf> (Updated October 17, 2017)

Other Helpful Resources about cannabis regulations, health and research:

<https://www.cdph.ca.gov/Programs/DO/letstalkcannabis/Pages/helpful-resources.aspx>

California Cannabis Portal

<https://cannabis.ca.gov/>

Para información en Español:

<https://www.cdph.ca.gov/Programs/DO/letstalkcannabis/Pages/enespanol.aspx>

DISCLAIMER: This publication is designed to provide general information on the topics presented. It is provided with the understanding that the author is not engaged in rendering any legal or professional services by its publication or distribution. Although these materials were reviewed by a professional, they should not be used as a substitute for professional services. The CLRC has no relationship or affiliation with the referral agencies, organizations or attorneys to whom we refer individuals. Resources and referrals are provided solely for information and convenience. Therefore, the CLRC disclaims any and all liability for any action taken by any entity appearing on the CLRC's resource and referral lists.

³ <https://www.cdph.ca.gov/Programs/CHSI/Pages/Medial-Marijuana-Identification-Card.aspx>