



JULY 2019

# Medical Marijuana: Guidance for Missouri's Domestic and Sexual Violence Programs

---

This publication was developed by MCADSV staff.  
For more information, contact MCADSV.

---

217 Oscar Dr., Ste. A • Jefferson City, MO 65101  
[573] 634-4161 • [888] 666-1911  
For D/deaf and Hard-of-Hearing and Late Deafened,  
dial 711 for Relay Missouri.  
[www.mocadsv.org](http://www.mocadsv.org) • [mocadsv@mocadsv.org](mailto:mocadsv@mocadsv.org)

Follow us on:



*The Missouri Coalition Against Domestic and Sexual Violence (MCADSV)  
unites Missourians with a shared value that rape and abuse must end,  
and advances this through education, alliance, research and public policy.*

# Medical Marijuana: Guidance for Missouri's Domestic and Sexual Violence Programs

Marijuana and the use of marijuana-based products are entering a new era in Missouri. As society, culture and laws change, domestic and sexual violence programs should prepare to meet the emergent needs of survivors accessing their services. The needs of program employees also should be addressed. This publication provides an overview of state and federal laws related to medical marijuana, templates for program policies and answers to frequently asked questions about medical marijuana in Missouri.

## STATE LAW: AN OVERVIEW OF AMENDMENT 2

Effective Dec. 6, 2018, Amendment 2 legalized the growth, manufacture, sale and consumption of marijuana and marijuana-based products for medical use in Missouri. Recreational use of marijuana remains unlawful. Amendment 2 allows patients with certain health conditions to apply for medical marijuana identification cards in order to purchase and consume medical marijuana. These cards also allow patients to grow a small number of marijuana plants for their personal use. A state-licensed physician must confirm that the patient is eligible for a card by certifying that the patient has a qualifying condition. These conditions include:

- Cancer
- Epilepsy
- Glaucoma
- Migraines
- Chronic medical condition that causes severe, persistent pain or muscle spasms
- Debilitating psychiatric disorders (including PTSD)
- HIV
- Any terminal illness
- Any “chronic, debilitating or other medical condition”

Amendment 2 establishes provisions for how providers of medical marijuana may produce, transport and sell their products as well as how patients are able to access it. The Missouri Department of Health and Senior Services (DHSS) is responsible for administering the licensing process. DHSS is developing a system to issue medical marijuana identification cards to patients who qualify. These cards are required for the purchase, consumption and personal cultivation of medical marijuana.

The Missouri Department of Health and Senior Services (DHSS) is responsible for administering the licensing process. DHSS is developing a system to issue medical marijuana identification cards to patients who qualify. These cards are required for the purchase, consumption and personal cultivation of medical marijuana.

cultivation of medical marijuana. DHSS is also responsible for developing regulations and administering the licensing process for medical marijuana growers, product manufacturers and dispensaries in Missouri. All medical marijuana and medical marijuana products must be grown and manufactured in Missouri.

Amendment 2 is not Missouri's first step toward legalizing medical marijuana. Cannabidiol (CBD), a marijuana extract, has been legal for the treatment of certain medical conditions since 2014. In 2018, Missouri became the 32nd state to legalize the use of marijuana for medical purposes, and it follows a nationwide trend of relaxing prohibitive marijuana laws.

Missouri's medical marijuana law differs from other states' laws in that it does not provide explicit protections for individuals who use medical marijuana. It does not prohibit discrimination or actions taken against employees or other parties for using and/or being impaired either on or off the job. Under the law, organizations are free to restrict the use of medical marijuana in whatever way they choose. Domestic and sexual violence programs can and should develop policies related to medical marijuana that are best suited to their funding requirements, mission and values. More about funding requirements is included under "Federal Laws and Medical Marijuana."

## TIMELINE FOR IMPLEMENTATION

Although medical marijuana is now legal in Missouri, the lengthy timeline for implementation of Amendment 2 prevents anyone from purchasing and/or consuming medical marijuana until DHSS has fully developed the licensing process. Missourians are not expected to be able to access medical marijuana until January 2020.

**The timeline for the implementation of Amendment 2 is:**

- **Jan. 5, 2019**  
*Application fees from growing, dispensary and manufacturing facilities will be accepted by DHSS.*
- **June 4, 2019**  
*All application forms and instructions will be made available to the public.*
- **July 4, 2019**  
*Applications for identification cards will be accepted by DHSS.*
- **Aug. 3, 2019**  
*Applications for growing, dispensary and manufacturing facilities will be accepted by DHSS.*
- **Dec. 31, 2019**  
*Deadline for DHSS to approve applications for facilities and identification cards.*
- **January 2020**  
*Card holders may be able to purchase and consume medical marijuana.*

Domestic and sexual violence programs can and should develop policies related to medical marijuana that are best suited to their funding requirements, mission and values.



## FEDERAL LAW AND MEDICAL MARIJUANA

Although the state of Missouri has legalized medical marijuana, it remains illegal under federal law. The Controlled Substance Act classifies marijuana as an illegal controlled substance that has a high potential for abuse, has no medical value and is unsafe for use, even under a physician's supervision.

The Drug Free Workplace Act prohibits organizations that receive federal grants or contracts from using federally classified controlled substances, including marijuana, on their premises. Programs receiving federal funds, including the Victims of Crime Act (VOCA), the Family Violence Prevention and Services Act (FVPSA), STOP grants or other funds from the Office of Violence Against Women, must maintain a drug-free work environment. The production, distribution, possession or use of controlled substances is prohibited. Programs that allow the use of medical marijuana on site risk losing their federal funding.

## HOW SHOULD DOMESTIC AND SEXUAL VIOLENCE PROGRAMS RESPOND?

As medical marijuana becomes available, domestic and sexual violence programs can expect to receive requests to use marijuana from survivors and program employees who hold valid DHSS-issued cards. The following considerations should be made as programs are preparing to respond:

- The rights of medical marijuana card holders to use medical marijuana
- The safety and well-being of other program participants
- Compliance with state and federal law
- Compliance with funding requirements

## RECOMMENDATIONS FOR EMPLOYEES

The Americans with Disabilities Act (ADA) requires employers to provide their employees who have a disability with a reasonable accommodation, unless doing so would cause the employer undue hardship. This includes making accommodations for taking prescription medications. Because federal law does not consider marijuana to be a medication, the use of medical marijuana is not protected by the ADA. The Drug Free Workplace Program further prohibits employee use of medical marijuana if funding requires the program to maintain a drug-free work environment.

At this time, employers in Missouri are able to prohibit their employees from using medical marijuana entirely while they are working or on their premises. They can enforce mandatory drug testing and impose sanctions for drug use, even if employees are using marijuana legally. Amendment 2 explicitly excludes employees from being able to sue their employers if action is taken against them for using medical marijuana.

Because federal law does not consider marijuana to be a medication, the use of medical marijuana is not protected by the ADA. The Drug Free Workplace Program further prohibits employee use of medical marijuana if the program's funding requires it to maintain a drug-free work environment.

If a domestic or sexual violence program receives federal funds, it is prohibited from allowing employees to use medical marijuana. If it does not receive federal funds, it is able to. Even if a program cannot provide accommodations to allow the use of medical marijuana, infractions to its policy still will likely occur; a response should be prepared and clearly communicated beforehand.

---

## **RECOMMENDATIONS FOR SURVIVORS PARTICIPATING IN PROGRAM SERVICES**

Just as with employees, if a domestic or sexual violence program receives federal funds, it cannot allow program participants to use medical marijuana. However, if it does not receive federal funds, it can allow such use. While not always possible, the best practice is to allow participants to use medical marijuana to meet their medical and health needs. If their preferred form of medical marijuana must be smoked, additional policies regarding when and where it is permitted should be established so as not to harm other participants or their children. Some programs ask participants to follow the same policy for smoking medical marijuana as they would for smoking cigarettes or other types of tobacco products. Other programs only allow medical marijuana in forms that do not emit a smoke or vapor, such as tinctures (alcohol infused with marijuana), pills, oils or butter.

The ADA, the Fair Housing Act and Section 504 of the Rehabilitation Act prevent domestic and sexual violence programs from withholding services or screening survivors out of services based on their health status, medical condition or what medications they are taking. Because program staff should not ask about medication use during the screening process, it is possible that survivors will come to programs with medical marijuana or could be under the influence of medical marijuana, without program staff knowing. Program staff should clearly inform survivors of the program's drug and alcohol policy, including whether medical marijuana is allowed. If medical marijuana is not allowed, program staff can discuss options for disposing of it, suggesting the resident find a safe place to store it or remove it from the premises. Searching through a survivor's belongings is not recommended.

If medical marijuana is allowed, participants should consume and store it as they would other prescription medications. Some residential programs provide individual locked storage boxes for participants to access their medications privately and to keep medications safe from other participants and their children.

If a domestic or sexual violence program receives federal funds, it is prohibited from allowing employees and people using their services to use medical marijuana.



## SAMPLE MEDICAL MARIJUANA POLICIES

*Provisions for medical marijuana can be added to existing policies on drug and alcohol use and/or prescription medication use and storage.*

### Sample Policies for Employees

#### *If program receives federal funds:*

Although medical marijuana is legal in Missouri, *(program name)* is a recipient of federal funds and, by accepting those funds, must comply with federal laws that prohibit the use of medical marijuana. Employees of *(program name)* are prohibited from using, possessing, producing or selling medical marijuana, even if done legally with a valid medical marijuana identification card. *(Program name)* is required by its government funding to comply with the Drug Free Workplace Act. The U.S. Controlled Substance Act classifies marijuana as an illegal drug. Employee use, possession, production or sale of any federally classified illegal drug is a violation of the Drug Free Workplace Act and is not permitted at this program.

#### *If program does not receive federal funds and chooses to offer accommodations for employee use of medical marijuana:*

Employees of *(program name)* in possession of a valid medical marijuana identification card issued by the state of Missouri may request to consume medical marijuana while at work. Employees seeking this accommodation should submit a letter specifying the details of their request. A copy of their medical marijuana card should be submitted with the letter. The request will be reviewed to determine whether such an accommodation is reasonable and appropriate for all parties involved. An agreement may be reached outlining the parameters in which medical marijuana can be used and the expectations for continued professional performance.

### Sample Policies for Survivors Participating in Programs

#### *If program receives federal funds:*

Although medical marijuana is legal in Missouri, participants of *(program name)* are prohibited from using, possessing, producing or selling medical marijuana, even if done so legally with a valid medical marijuana identification card. The U.S. Controlled Substance Act classifies marijuana as an illegal drug. Any use, possession, cultivation or sale of federally classified illegal drugs at this facility is a violation of the Drug Free Workplace Act and is not permitted. The goal of *(program name)* is to ensure that survivors are comfortable, safe and healthy during their time here. Program staff are available to discuss options and identify alternative solutions to using medical marijuana in order to ensure that participants' health and medical needs are met.

Program staff should be available to discuss options and identify alternative solutions to using medical marijuana in order to ensure that a survivor's health and medical needs are met.

***If program does not receive federal funds and chooses to offer accommodations for participant use of medical marijuana:***

Program participants holding a valid medical marijuana identification card issued by the state of Missouri may use medical marijuana while obtaining services from (*program name*). While drugs and alcohol are generally not permitted, accommodations will be made for medical marijuana based on participants' health needs. Participants should consume and store medical marijuana and medical marijuana products as they would other prescription medications. If the medical marijuana must be smoked, discuss with staff when and where this is allowed.

---

## FREQUENTLY ASKED QUESTIONS

***Do domestic and sexual violence programs have to allow their employees and program participants to use medical marijuana at their facilities?***

**No.** Missouri law allows programs to develop internal policies that comply with their funding requirements and are suited to their mission, values and the services they provide. In keeping with the principles of trauma-informed care and survivor-defined advocacy, it is recommended that advocates talk with participants with valid identification cards about how and where to use medical marijuana when possible.

***What does medical marijuana look like?***

**Amendment 2 allows medical marijuana in many forms**, including edible products, ointments, tinctures and concentrates. These items are required to be sold in clearly labeled containers. Card holders also are able to grow as many as six marijuana plants for personal use.

***Will medical marijuana be available at pharmacies?***

**No.** Medical marijuana will be available for purchase only from state-licensed dispensaries.

***Do patients receive a prescription specifying a dose and frequency to use?***

**No.** Amendment 2 does not require a physician to write a prescription for marijuana; rather, physicians confirm that a patient has a qualifying condition that makes them eligible to apply for a medical marijuana identification card. Therefore, it is not possible for a patient to take medical marijuana "as prescribed."

***Can medical marijuana be used in public places?***

**No.** Amendment 2 prohibits medical marijuana from being consumed in public places.

***Are domestic and sexual violence programs considered public places?***

**No.** Even though many programs receive public funds, they are privately operated organizations and are not considered public places.

Participants should consume and store medical marijuana and medical marijuana products as they would other prescription medications. If the medical marijuana must be smoked, discuss with staff when and where this is allowed.



***Are employers required to cover medical marijuana in their health insurance plans?***

**No.** Amendment 2 does not mandate health insurance companies to cover medical marijuana.

***Can domestic and sexual violence programs accept monetary donations from medical marijuana businesses such as growers, manufacturers and/or dispensaries?***

**Probably.** Receiving monetary donations from marijuana businesses is not a violation of the Drug Free Workplace Act.

***Where can I get more information about Amendment 2 and DHHS regulations?***

**Email questions to DHSS at MedicalMarijuanaInfo@health.mo.gov.**

Look for further information from MCADSV and SESCO Management Consultants as the process of responding to medical marijuana develops in Missouri.

---

## FURTHER INFORMATION

Colorado Coalition Against Domestic Violence, "Medications: Medical Marijuana Considerations for Domestic Violence Shelters."  
[https://www.violencefreecolorado.org/wp-content/uploads/2013/11/F-MEDICATIONS-Medical-Marijuana-VER12-31-14.logo\\_.pdf](https://www.violencefreecolorado.org/wp-content/uploads/2013/11/F-MEDICATIONS-Medical-Marijuana-VER12-31-14.logo_.pdf)

Missouri Coalition Against Domestic and Sexual Violence, "How the Earth Didn't Fly Into the Sun: Missouri's Project to Reduce Rules in Domestic Violence Shelters"

Missouri Constitutional Amendment 2, <https://www.sos.mo.gov/CMSImages/Elections/Petitions/2018-051.pdf>

Missouri Department of Health and Senior Services, Constitutional Amendment 2 - Medical Marijuana: <https://health.mo.gov/safety/medical-marijuana/index.php>.

Missouri Department of Health and Senior Services, Constitutional Amendment 2 - Frequently Asked Questions: <https://health.mo.gov/safety/medical-marijuana/faqs.php>.

National Center on Domestic Violence, Trauma and Mental Health. (2011) "Model Medication Policy for DV Shelters." Available from <http://www.nationalcenterdvtraumamh.org/wp-content/uploads/2012/01/Model-Medication-Policy-for-DV-Shelters.pdf>.

Nevada Coalition to End Domestic and Sexual Violence, Technical Assistance Bulletin, Legalized Marijuana; recommendations and guidance for Nevada's Domestic Violence Shelters

Look for further information from MCADSV and SESCO Management Consultants as the process of responding to medical marijuana develops in Missouri.