

With the Proliferation of State Cannabis Programs, Where Does Virginia Fit In? (Part 1)

Description



If you have watched the news or read a newspaper lately, you have likely been

confronted by the rapid expansion of state medical cannabis programs. More than 50 percent of states currently have medical marijuana laws on their books, several other states are considering establishing such programs, and a handful of states allow adult use of recreational cannabis. Despite the rapid expansion of state cannabis programs, whereby states have authorized certain cannabis-related activities (e.g., growing, processing, dispensing, and use of medical marijuana), marijuana is a Schedule I drug under the Controlled Substances Act, meaning that it is federally illegal for any reason. This conflict between federal and state laws results in a number of challenges for those involved in, and affected by, the cannabis industry. And earlier this year, the status of cannabis and cannabis-related activity became even murkier.

On January 4, 2018, Attorney General Jeff Sessions issued a [memorandum](#) to all U.S. Attorneys in which the Attorney General rescinded, effective immediately, several previous U.S. Department of Justice (DOJ) DOJ guidance documents related to marijuana enforcement, the most notable of which was the 2013 Cole Memorandum (Cole Memo). The Cole Memo directed U.S. Attorneys to utilize their resources prudently, and to use discretion before prosecuting those using medical marijuana in compliance with their states' laws.

While the exact impact of Attorney General Sessions' decision to roll back the Cole Memo and other President Obama-era marijuana policies is unclear, it could mean increased federal enforcement in states that have authorized cannabis use. Despite cannabis' federally-illegal status, and as discussed above, more than 50 percent of states have adopted medical cannabis laws, and nine of those states and the District of Columbia have also enacted recreational or "adult use" statutes.

In 2018, at least six states are scheduled to take up recreational cannabis legalization measures, while at least five other states might decide whether to legalize medical cannabis. Soon after Sessions' announcement, Vermont Governor Phil Scott signed into law a recreational marijuana legalization bill, and the New Hampshire House of Representatives approved a similar measure.

Public opinion — 2018 is an election year — may play an important role in the marijuana debate. Last October, Gallup [reported](#) that 64 percent of Americans were in favor of marijuana legalization, the highest level of support recorded in nearly 50 years.

Where does Virginia fit in? On March 9, Gov. Ralph Northam signed into law HB 1251, a law that permits doctors to issue written certifications for the use of cannabidiol (CBD) oil or THC-A oil for the treatment or to alleviate the symptoms of any diagnosed condition or disease determined by the practitioner to benefit from such use. Previously, practitioners could only issue such certifications for the treatment or to alleviate the symptoms of intractable epilepsy. The legislation also:

- Increased the supply of CBD oil or THC-A oil that a pharmaceutical processor may dispense from a 30-day supply to a 90-day supply;
- Reduced the minimum amount of CBD or tetrahydrocannabinol acid per milliliter for a dilution of the cannabis plant to fall under the definition of CBD oil or THC-A oil, respectively.

The Virginia Board of Pharmacy (VBOP) is currently developing a registration process for physicians to obtain registration for issuing written certifications. It is anticipated this registration process will be implemented by late spring or early summer of this year. The VBOP is also opening up a competitive application process for up to five medical cannabis oil pharmaceutical processors, one for each of Virginia's [health service areas](#).

Although Virginia did not authorize broadly the use of medical cannabis like its neighbor across the Potomac River (Maryland), the expansion of the Commonwealth's medical cannabis oil program from a single qualifying condition to any diagnosed condition is a significant step forward.

In part two of this article, we will address the impact of Virginia's recently-expanded medical cannabis industry. Look for Part II in our next Examiner Monthly issue.



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