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## Medicinal Marijuana Laws

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Recreational use has also recently been legalized in California, but all marijuana use remains illegal under federal law. If you're thinking about using medicinal marijuana, here's what you need to know.

### California, local, and federal laws on medical marijuana

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Medical use of marijuana/cannabis has been legal since Proposition 215, the "Compassionate Use Act," passed in 1996 ([Cal. Health & Safety \(H&S\) § 11362.5](http://leginfo.ca.gov/faces/codes_displaySection.xhtml?sectionNum=11362.5&lawCode=HSC) ([http://leginfo.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=11362.5&lawCode=HSC](http://leginfo.ca.gov/faces/codes_displaySection.xhtml?sectionNum=11362.5&lawCode=HSC))). After Proposition 64 legalized recreational marijuana, the legislature passed the "Medical and Adult-Use Cannabis Regulation and Safety Act" ("MAUCRSA"), creating a combined regulatory system for both medical and recreational marijuana. (Read NORML's summary here: [California NORML Guide to AUMA](https://www.canorml.org/california-norml-guide-to-auma/). (<https://www.canorml.org/california-norml-guide-to-auma/>))

These rules permit and regulate for-profit cultivation, distribution, manufacturing, testing, dispensary, and transportation, with permits required from both local and state agencies. Temporary state licenses became available starting January 1, 2018.

For the most part, these rules do not affect individual patients, as long as they cultivate solely for personal medical use and limit their growing area to 100 square feet. Primary caregivers can cultivate up to 500 square feet for the personal medical use of up to five patients without falling under the new rules.

#### **City and County Laws**

Many cities and counties prohibit or regulate dispensaries and the cultivation of marijuana. Any county or city may have its own unique ordinances. Most are available on the internet.

A chart of local area ordinances, and links to resources to track changes, are available in [our article on recreational marijuana rules](https://saclaw.org/articles/recreational-marijuana-use-sacramento-region/) (<https://saclaw.org/articles/recreational-marijuana-use-sacramento-region/>). You can always check the

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most recent status of the law by visiting the city or county code directly.

## **Federal Law**

Marijuana use, possession, and distribution is illegal under federal law. [21 U.S.C. § 801 et seq](#) (<https://www.gpo.gov/fdsys/pkg/USCODE-2014-title21/html/USCODE-2014-title21-chap13-subchapl.htm>). There is no exception or special treatment for medical use, and California law cannot override federal law.

In April, 2022, Attorney General Merrick Garland reaffirmed his prior statements that investigating and prosecuting marijuana users is not a U.S. Department of Justice priority, although he did not definitively state that his Justice Department would not pursue cases against Americans in states which legalize and regulate marijuana. (“[Attorney General Garland Reconfirms the DOJ’s Hands-Off Approach Toward Federal Marijuana Prosecution,](#)” May 3, 2022, [Budding Trends](https://www.jdsupra.com/legalnews/attorney-general-garland-reconfirms-the-9983989/) (<https://www.jdsupra.com/legalnews/attorney-general-garland-reconfirms-the-9983989/>)).

In 2024, the DOJ’s Department of Drug Enforcement Administration proposed changing marijuana from a Schedule I drug to a Schedule III drug. Schedule I drugs are those considered highly dangerous and are completely banned under federal law, while Schedule III drugs are recognized as less dangerous, with a potential for medical use, and are more lightly regulated, although they are still illegal without a prescription. This change is expected to become final in the next years.

## **Common questions about medical marijuana**

### ***Now that recreational marijuana is legal, do I still need a medical recommendation?***

Patients with a doctor’s recommendation can grow or possess larger quantities of marijuana than recreational users. In addition, if you are under 21, you must have a doctor’s recommendation to purchase marijuana. (Note: some dispensaries have discontinued sales to patients under 21, even with recommendation, to fit within recreational dispensary rules.) Finally, a county-issued medical marijuana ID card exempts you from tax on marijuana purchases.

### ***How do patients get medical marijuana recommendations?***

Doctors do not “prescribe” marijuana. Federal law specifically prohibits prescription of Schedule I drugs, including marijuana. Instead, doctors can “recommend” marijuana for appropriate conditions. Patients who are living with “cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis, migraine, or any other illness for which marijuana provides relief” are mentioned in [Prop. 215](#).

([http://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=11362.5.&lawCode=HSC](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=11362.5.&lawCode=HSC)) Physicians have recommended marijuana for numerous other conditions, including insomnia, depression, anxiety, PTSD, and many more.

Most medicinal marijuana recommendations are made by doctors who specialize in evaluating patients for recommendation, rather than the patients’ usual physician. The recommending doctor should review patients’ existing medical records before making a recommendation, including reviewing any other medications the patients are already using.

### ***How do patients acquire marijuana, and how much can they possess?***

[Senate Bill 420](#) ([http://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=11362.7.&lawCode=HSC](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=11362.7.&lawCode=HSC)) (2003) authorized

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individual patients (and their caregivers) to possess up to six mature or 12 immature plants and eight ounces of dried cannabis. Patients can grow their own marijuana, or purchase it from licensed dispensaries. It is not legal to sell without a license.

Cities and counties may raise the limits on quantity if they choose (although more than 100 square feet would subject the individual to the new licensing requirements.) They can also impose zoning restrictions preventing dispensaries or prohibiting outdoor cultivation, so check local codes.

### ***What is a Medical Marijuana ID card, and how do patients get one?***

A Medical Marijuana ID card is optional—patients do not need to get one to use medical marijuana legally, just a doctor’s recommendation. However, it can be very useful. It exempts the patient from paying taxes on marijuana purchases. In addition, the ID card prevents law enforcement from arresting a patient with permissible amounts of marijuana (which may exceed the legal recreational limits).

Cards are issued by county Departments of Public Health. There is a charge for the card; currently the fee is \$100 annually (\$50 with proof of Medi-Cal benefits) in [Sacramento County](https://dhs.saccounty.gov/PUB/Pages/Medical-Marijuana-Identification-Card-Program/Medical-Marijuana-Identification-Card-Program.aspx) (<https://dhs.saccounty.gov/PUB/Pages/Medical-Marijuana-Identification-Card-Program/Medical-Marijuana-Identification-Card-Program.aspx>). (“[Medical Marijuana Identification Card – Frequently Asked Questions,](http://www.dhs.saccounty.net/PUB/Pages/Medical-Marijuana-Identification-Card-Program/Medical-Marijuana-Identification-Card-Frequently-Asked-Questions.aspx)” [Sacramento County Department of Health Services](http://www.dhs.saccounty.net/PUB/Pages/Medical-Marijuana-Identification-Card-Program/Medical-Marijuana-Identification-Card-Frequently-Asked-Questions.aspx) (<http://www.dhs.saccounty.net/PUB/Pages/Medical-Marijuana-Identification-Card-Program/Medical-Marijuana-Identification-Card-Frequently-Asked-Questions.aspx>)).

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