

# Arkansas Medical Marijuana: Key Employment Law Issues for Petroleum Marketing Operations



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My law firm colleague Nate Read and myself authored an article for the Arkansas Oil Marketers Association publication *The Canopy* titled:

*Arkansas Medical Marijuana: Key Employment Law Issues for Petroleum Marketing Operations ("Article")*

Arkansas passage of the Medical Marijuana Amendment of 2016 set in motion fast-paced efforts to put in place rules that will allow the cultivation, processing, dispensing, and purchase of marijuana for medicinal-related consumption.

The Article notes that the legalization of certain uses/cultivation of marijuana in Arkansas will generate a host of legal issues including healthcare, insurance, banking, OSHA, etc. However, employers will face particular challenges. They will need to consider how to address potential workplace issues involving medical marijuana. Such facilities will include petroleum marketing operations located in Arkansas.

The *Canopy* Article identifies issues that petroleum marketers or jobbers should consider in view of potential employee use of medical marijuana. Issues involving not only current employees but also job applicants must be considered. Suggestions are provided for addressing issues arising out of medicinal use of marijuana in the employment context.

An important provision in the Arkansas Medical Marijuana Amendment of 2016 is the non-discrimination language. This provision provides that:

"An employer shall not discriminate against an applicant or employee in hiring, termination, or any term or condition of employment, or otherwise penalize an applicant or employee, based upon the applicant's or employee's past or present status as a qualifying patient or designated caregiver."

Of particular focus are the potential issues associated with petroleum marketers or jobbers that operate transports subject to United States Department of Transportation regulations. These regulations specifically address the issue of marijuana use by certain classes of employees involved in transportation. As a result, a key question is how these United States Department of Transportation regulations are affected by the Arkansas Medical Marijuana Act non-discrimination provision (if at all).

Suggestions for addressing Arkansas Medical Marijuana issues include:

- Create Written Job Descriptions which Designate Safety Sensitive Positions within your Organization
- Review and Update Your Employee Handbooks, and Drug Testing Policies and Practices
- Train Managers and Supervisors to Identify Employees Under the Influence with a Good Faith Belief Sufficient to Support the Administration of a Drug Test

[A copy of the Article can be downloaded here.](#)