



**Attorneys:**

- **Andrew C. Glassman**  
aglassman@pullcom.com  
860.541.3316
- **Diane W. Whitney**  
dwhitney@pullcom.com  
860.424.4330

## Legal Questions Weigh On CT's Medical Marijuana Industry

**June 2, 2014**

Diane Whitney & Andrew Glassman  
*Hartford Business Journal*

Connecticut's medical marijuana law was enacted two years ago and has resulted in the approval and siting of production and dispensing operations throughout the state. However, the use of marijuana in any form remains illegal under federal law, creating many legal questions and challenges for businesses and patients.

In Connecticut, prescribing, using, growing and dispensing medical marijuana is regulated by the Department of Consumer Protection (DCP), which has the most comprehensive regulatory framework of any state.

Here are a few of the issues facing business operators and registered patient users as these growers and dispensers go into operation.

### FACILITY LOCATION

Four production facilities in West Haven, Simsbury, Portland and Watertown have DCP and zoning approval. Each will be located in a light industrial building. Six dispensaries have also been approved by DCP and have received zoning approval in Branford, Bristol, Hartford, South Windsor, Uncasville and Bethel.

Almost every municipality in Fairfield County has a moratorium in place preventing dispensary facilities from locating there. Moratoriums are limited in time, but several towns are considering outright bans. State law allows towns to ban the sale of alcohol within their borders, but there is no specific authority for bans of medical marijuana facilities. Whether such a ban would survive a legal challenge is an open question.

**pullcom.com**  @pullmancomley

**BRIDGEPORT** | **HARTFORD** | **SPRINGFIELD** | **WAKEFIELD** | **WATERBURY** | **WESTPORT** | **WHITE PLAINS**  
203.330.2000 | 860.424.4300 | 413.314.6160 | 401-360-1533 | 203.573.9700 | 203.254.5000 | 914.705.5355

## Legal Questions Weigh On CT's Medical Marijuana Industry

---

Some municipalities consider medical marijuana dispensary facilities to be the same as retail pharmacies, and will allow them to be located in central business districts, respecting the state's desire to give them legitimate use status and making them easily accessible by patients.

### MEDICAL MARIJUANA BUSINESS ISSUES

Though legal in Connecticut, the classification of marijuana trade activity as a felony under federal law creates obvious concerns for business owners and patients. Normal business requirements such as signing leases, arranging for financing, and setting up bank accounts are not easily accomplished because participation by landlords, banks and service providers can be considered illegal under federal law.

However, a recent U.S. Department of Justice memorandum and guidance put out by the U.S. Treasury suggests that use of medical marijuana under strict state regulations would not be a priority for federal enforcement. This guidance provides comfort, but there are still landlords reluctant to lease to a marijuana facility. Landlords fear forfeiture under federal law and grow facilities' needs for unusually heavy electricity and water use.

Landlords for dispensary facilities must be willing to accommodate special security measures dictated by the regulations and the internal construction necessary to put them into effect. Some landlords of multiple-tenant buildings are concerned about how other tenants will react to sharing space with a tenant engaged in activity prohibited under federal law.

Routine banking activities also pose challenges for the industry. Very few banks, particularly federally regulated banks, are willing to conduct business with medical marijuana facilities. The Colorado legislature, recognizing this problem, has approved banking system reforms for the industry, which are awaiting final approval and a single, albeit major Washington State credit union has announced that it will do business with recreational marijuana distributors. Neither plan, however, includes the use of credit or debit cards, which presents a myriad of problems for dispensary operators, which are forced to function as all-cash businesses.

In Connecticut, growers and dispensers grapple with putting systems in place to avoid the obvious security risks associated with growing a valuable crop and dealing with an all-cash business.

### PATIENT-EMPLOYER ISSUES

Other issues involve the use of marijuana by registered patients who are prohibited from using the drug by an employer, or because of federal or state mandated safety programs. Registered patients who use medical marijuana for a legitimate illness, but fail a required drug test are subject to termination based on violations of federal law.

## Legal Questions Weigh On CT's Medical Marijuana Industry

---

If a patient works in a job that could be dangerous — say, operating heavy machinery — employers may take job actions against that employee. Connecticut's law prohibits non-federally funded employers from discriminating against employees due to their status as a registered medical marijuana patient. However, if there is a risk that the patient cannot perform his job while using marijuana, an employer may arguably terminate that employee's job.

There have been numerous unsuccessful cases filed by discharged employees throughout the country, with courts routinely upholding an employer's right to terminate such employees. Connecticut's decision to include non-discrimination language in its statute will likely lead to more litigation.

Diane Whitney and Andrew Glassman practice environmental and business law at Pullman & Comley, where they represent clients involved in the medical marijuana industry. Their colleagues Megan Carannante and Rachel Ginsburg contributed to this article.

*Diane W. Whitney chairs the Environmental Law Department and Andrew C. Glassman chairs the Business and Finance practice at Pullman & Comley in Hartford. Reprinted with permission from the June 2nd issue of Hartford Business Journal. © 2014 HartfordBusiness.com. Further duplication without permission is prohibited. All rights reserved*

---

This publication is intended for educational and informational purposes only. Readers are advised to seek appropriate professional consultation before acting on any matters in this update. This report may be considered attorney advertising. To be removed from our mailing list, please email [unsubscribe@pullcom.com](mailto:unsubscribe@pullcom.com) with "Unsubscribe" in the subject line. Prior results do not guarantee a similar outcome.