

## CT Court Rules for Woman Denied Employment for Medical Marijuana Use

A Connecticut federal court has ruled that employers may not refuse to hire a qualified medical marijuana patient due to a positive drug test. In *Noffsinger v. SSC Niantic Operating Company, LLC (doing business as Bride Brook Nursing and Rehabilitation Center)*, the court ruled on September 5, 2018, that federal law cannot be used as justification for denying employment for medical marijuana patients when they are protected under state law.

### Background

Katelin Noffsinger accepted an offer of employment from Bride Brook in 2017, which was contingent on passing a preemployment drug test. Suffering from post-traumatic stress disorder (PTSD) following a car accident, in 2015 Noffsinger was prescribed medical marijuana by her doctor under the Connecticut Palliative Use of Marijuana Act (PUMA). She disclosed her use of medical marijuana to the company under PUMA and assured them that she restricted her use to after work hours and never on work property. When Noffsinger tested positive for marijuana during her preemployment screening, Bride Brook promptly rescinded her job offer citing its drug testing policy as a federal contractor.

Noffsinger filed suit against the company alleging a violation of PUMA's antidiscrimination provision. The employer defended its employment decision arguing that it followed federal law citing the Drug Free Workplace Act, which prohibits federal contractors from allowing employees to use illegal drugs, and the False Claims Act, which combats fraud against the government. However, the court rejected Bride Brook's argument, ruling that federal law, in fact, does not bar an employer from hiring when a legal and lawful drug is used off duty, outside of the workplace in accordance with state law.

This is the first court decision to determine that federal obligations do not excuse taking adverse actions against medical marijuana patients who are protected under state law. Employers should not rely solely on their previous drug use policies based on federal law or their status as a federal contractor when making employment decisions regarding employees and applicants who use medical marijuana.

### Employer next steps

We recommend that you first review the state medical marijuana laws affecting your workplace. Then review any of your current drug testing or marijuana use policies to make sure that employees who are prescribed medical marijuana are covered under them. If a current or potential employee discloses that he or she uses medical marijuana, you need to work together to find accommodations that will allow the individual to do his or her job most effectively.

Finally, be aware that you are not required by law to accommodate the use of marijuana in the workplace during business hours, and that this court decision only applies to *medical* marijuana and not the legalized use of recreational marijuana in the state. If you have any additional questions regarding medical marijuana policy guidelines, please [contact us](#).

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