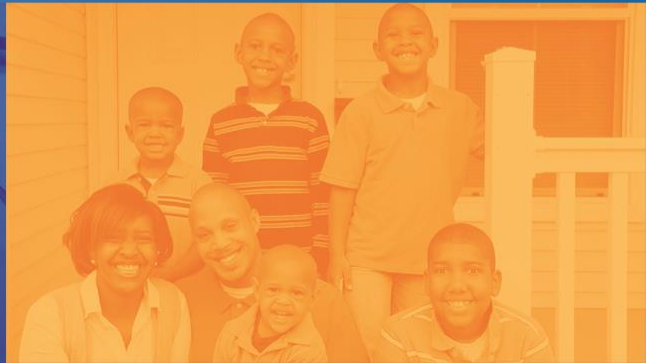




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MEDICAL MARIJUANA



MEDICAL MARIJUANA IN OHIO

- Ohio passed a medical marijuana law effective 9/8/2016
- So what does this mean for Ohio owners/landlords?
- Can tenants legally use marijuana in their units?
- Is use of medical marijuana a reasonable accommodation for tenants with disabilities?



SUMMARY OF THE OHIO LAW

- Qualified patients may use medical marijuana in these forms only:
 - Cannabis oils for eating or topical application
 - Tinctures containing alcohol for eating
 - Patches for topical application
 - Other edibles and plant materials (such as plant material infused oil)
 - Vaporization when cannabis is heated without setting it on fire
 - **MUST BE SOLD BY STATE-LICENSED DISPENSARIES**



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SUMMARY OF THE OHIO LAW

- Still prohibited: SMOKING AND GROWING MARIJUANA
- Law to be fully operational by September 2018
- Website: www.medicalmarijuana.ohio.gov



QUALIFIED PATIENTS

- Persons with:
 - Cancer
 - PTSD
 - ALS
 - Crohn/s disease
 - Multiple sclerosis
 - Fibromyalgia
 - Epilepsy
 - AIDS
- Catch – all category:
 - Persons with pain that is chronic and severe or intractable to qualify as a medical condition



SUMMARY OF CONTROLLED SUBSTANCES ACT (CSA)

- Prohibits all marijuana, including prescribed marijuana
- Classifies marijuana as a Schedule 1 drug with no medical use, like heroin and crystal meth
- US Government's position since 2009:
Department of Justice will not focus federal resources on prosecuting crimes that were legal in medical marijuana states



SUMMARY OF CONTROLLED SUBSTANCES ACT (CSA)

- CSA says landlord who, particularly with knowledge, leases rental housing to a user, possessor, or cultivator of medical or recreational marijuana:
 - May face civil forfeiture of its real property
 - May be federally prosecuted for aiding and abetting
- DEA announced in 2016 that it will retain marijuana as a Schedule 1 drug that doctors are not permitted to prescribe



MEDICAL MARIJUANA - A REASONABLE ACCOMMODATION?

- 6th Circuit Federal Court of Appeals ruled in 2014
 - landlords do NOT have to allow medical marijuana use because:
 - Federal law trumps state law
 - Fair Housing Act and Section 504 both state that current use of illegal drugs is not protected



WHAT'S A LANDLORD TO DO AT ADMISSION?

- Applications: May ask if applicant currently uses illegal drugs – name marijuana specifically or all Schedule 1 drugs
 - Applicants may incorrectly argue Ohio makes use legal and they did not know their use was illegal under federal law
 - Admission Standards and Leases
 - Tenant Selection plans need to spell out that illegal drug use is prohibited and cause for housing denial and tenancy termination
 - Follow HUD and OHFA for lease requirements



WHAT'S A LANDLORD TO DO AFTER ADMISSION?

- Owners should establish policies which allow for the termination of tenancy of any household who is illegally using controlled substances (including marijuana), or whose use interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents
 - HUD properties must adopt such a policy
- After admission, HUD allows owners discretion to allow termination/eviction for marijuana use on a case-by-case basis





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COMPLIANCE QUESTIONS?

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