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Legal Alerts

DOJ Final Order Loosens Rules For Medical Marijuana

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Feds in historic move re-classify medical marijuana as a less dangerous drug, ease tax burden on state medical marijuana licensees, establish expedited federal registration process and announce a June 2026 hearing to re-classify adult-use marijuana.

Overview

On Thursday, April 23, 2026, the U.S. Department of Justice, in a watershed move, re-classified marijuana products that are FDA-approved and marijuana regulated under a state medical marijuana license as Schedule III substances. Under the Controlled Substances Act, Schedule III substances have a moderate to low potential for physical and psychological dependence and lower potential for abuse. [1] They include Tylenol with codeine, ketamine, anabolic steroids and testosterone. [2]

Until now, medical marijuana had been classified as a Schedule I substance, reserved for the most dangerous drugs deemed by the federal government to lack any accepted medical use and to have a high potential for abuse (i.e., heroin).[3]

Tax implications

Holders of state medical marijuana licenses will no longer be subject to the deduction disallowance imposed by Section 280E of the Internal Revenue Code. Section 280E applies only to businesses engaged in "trafficking in controlled substances" from Schedule I or II.[4]

Federal registration

Existing state medical marijuana licensing systems will be incorporated into the federal registration framework: state-licensed medical marijuana entities seeking federal Drug Enforcement Administration (DEA) registration as manufacturers, distributors and/or dispensers may submit their existing state credentials as conclusive evidence of state-law authorization. The Administrator must grant registration.

What the order does not apply to

Any form of marijuana other than in an FDA-approved drug product or marijuana subject to a state medical marijuana license remains a Schedule I controlled substance, including but not limited to unlicensed bulk marijuana, marijuana extract and delta-9-THC materials used to make FDA-approved drug products. Synthetic THC also remains a Schedule I substance. The order does not affect the legal status of hemp.

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You can find the full order here.

Adult-use marijuana-what's up next?

The DEA announced that it will hold a hearing on June 29, 2026 to consider rescheduling marijuana into Schedule I. In accordance with President Trump's December 18, 2025 Executive Order 14370, the DEA aims to complete this process "in the most expeditious manner in accordance with Federal law."

You can find the full action announcement here.

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[1] https://www.dea.gov/drug-information/drug-scheduling

[2] *Id.*

[3] *Id.*

[4] 26 U.S.C. § 280E

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