



NEW FEDERAL MEDICAL CANNABIS LAWS & THE APPLICATION OF CIVIL RIGHTS PROTECTIONS FOR PATIENTS

On April 28, 2026, Acting Attorney General Blanche published the final AG Order No. 6754-2026,* placing marijuana products regulated by qualifying state medical cannabis licenses in Schedule III of the Controlled Substances Act and establishing a federal registration structure. The Order recognizes state medical cannabis programs as part of the federal healthcare framework, noting that licensed medical professionals oversee patient qualification based on state-specific criteria and qualifying conditions. It confirms that state-authorized medical cannabis certifications or similar patient documents are to be treated as functionally equivalent to prescriptions. By amending 21 C.F.R. § 1301.13, the federal government now recognizes state medical cannabis patient documentation.

Qualifying medical cannabis patients are entitled to be evaluated under the following federal civil rights statutes. Failure to align policies with these laws may expose covered entities to federal enforcement, civil liability, loss of eligibility for federal funding, fines, and corrective actions.

AMERICANS WITH DISABILITIES ACT

The Americans with Disabilities Act prohibits covered employers from discriminating against qualified individuals on the basis of disability in job application procedures, hiring, advancement, discharge, compensation, training, and other terms, conditions, and privileges of employment. See 42 U.S.C. § 12112(a). The statute defines discrimination to include failure to provide reasonable accommodations to a qualified applicant or employee with a disability, unless the employer can demonstrate undue hardship. See 42 U.S.C. § 12112(b)(5)(A).

The Americans with Disabilities Act also limits when employers may conduct medical examinations or make disability-related inquiries. Under 42 U.S.C. § 12112(d)(2)(A), employers may not inquire into the existence, nature, or severity of a disability prior to a conditional offer of employment. The implementing regulation at 29 C.F.R. § 1630.13(a) similarly restricts medical examinations and disability-related inquiries except as specifically permitted.

These provisions establish a framework in which employment decisions must be based on qualifications, performance, and individualized assessment, rather than categorical assumptions about a medical condition or treatment. Policies that rely on status-based determinations, rather than evidence of impairment or job-related risk, must be evaluated within this framework.

THE FAIR HOUSING ACT

The Fair Housing Act prohibits discrimination in the sale or rental of housing and in housing-related services on the basis of disability. Under 42 U.S.C. § 3604(f), discrimination includes the refusal to make reasonable accommodations in rules, policies, practices, or services when such accommodations may be necessary to afford a person with a disability an equal opportunity to use and enjoy a dwelling.

This statutory framework applies across both public and private housing contexts covered by the Act. It requires that housing-related decisions involving individuals with disabilities be evaluated through an individualized reasonable-accommodation analysis, rather than categorical exclusions.

Following AG Order No. 6754-2026, policies that treat participation in a state-approved medical cannabis program as inherently disqualifying must be assessed against the Fair Housing Act's requirements for individualized review and equal access to housing opportunities.

REHABILITATION ACT & FEDERALLY FUNDED PROGRAMS

Section 504 of the Rehabilitation Act provides that no otherwise qualified individual with a disability shall, solely by reason of disability, be excluded from participation in, denied the benefits of, or subjected to discrimination under any program or activity receiving federal financial assistance or conducted by a federal executive agency. See 29 U.S.C. § 794.

This statute governs a wide range of federally funded and federally administered programs, including those involving healthcare, housing, employment, and federal contracting. It establishes that nondiscrimination obligations extend to entities that receive federal funds or operate federal programs, requiring compliance with disability rights protections in the delivery of services and benefits.

As with the Americans with Disabilities Act and the Fair Housing Act, Section 504 requires that determinations affecting individuals with disabilities be grounded in individualized assessment and program-specific considerations, rather than categorical exclusions.

IMPLEMENTATION OF CIVIL PROTECTIONS

The Americans with Disabilities Act, the Fair Housing Act, and Section 504 of the Rehabilitation Act provide the Department of Justice with a clear basis for guiding implementation across federal agencies, federally funded programs, and covered private-sector settings. The statutes apply in different contexts, but they point in the same direction: medical cannabis policies must now be reviewed through the lens of disability nondiscrimination.

Federally certified entities, private actors implementing federal programs, landlords, employers, businesses, healthcare providers, housing providers, service providers, and other covered entities must ensure that their policies align with this framework. Policies that deny housing, employment, healthcare, services, benefits, federal program participation, or reasonable accommodation solely because a patient's medicine is cannabis must now be reviewed under federal nondiscrimination standards.

In light of this change, discrimination against medical cannabis patients is a federal civil rights violation when it relies on policies that promote blanket exclusion rather than individualized assessment. The legal standard must shift toward individualized review, reasonable accommodation, actual impairment, documented safety risks, and program-specific necessity.

Medical cannabis patients may not be denied services, housing, healthcare, employment, benefits, federal program participation, or reasonable accommodation solely because they participate in a state-approved medical cannabis program.

*AG Order No. 6754-2026 / Schedule III Final Rule: Department of Justice and Drug Enforcement Administration, "Schedules of Controlled Substances: Rescheduling of Food and Drug Administration Approved Products Containing Marijuana From Schedule I to Schedule III; Corresponding Change to Permit Requirements," 91 Fed. Reg. 22714, April 28, 2026. www.federalregister.gov/documents/2026/04/28/2026-08176/schedules-of-controlled-substances-rescheduling-of-food-and-drug-administration-approved-products

Contact Americans for Safe Access at info@safeaccessnow.org for support with updating your company, organization, or institution's medical cannabis policies.

