

Puerto Rico Disability Discrimination Law Covers Registered and Authorized Medical Cannabis Patients

By Sara E. Colón-Acevedo, Ana B. Rosado-Frontanés & Karina Rodríguez

October 19, 2022

Meet the Authors



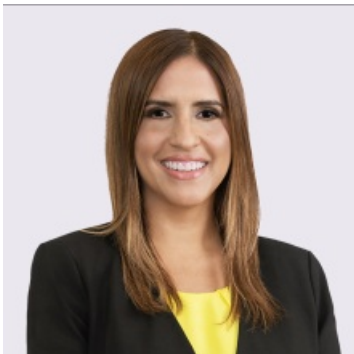
Sara E. Colón-Acevedo

Principal

(787) 522-7310

Sara.Colon-

Acevedo@jacksonlewis.com

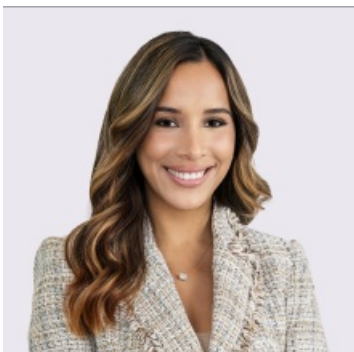


Ana B. Rosado-Frontanés

Of Counsel

787-522-7314

Ana.Rosado@jacksonlewis.com



Puerto Rico's disability discrimination statute (Law 44-1985), the local counterpart of the Americans with Disabilities Act (ADA), has been amended to extend coverage to registered and authorized medical cannabis patients. The amendment (Law 90-2022) went into effect on October 14, 2022, upon Governor Pedro Pierluisi's signing.

Resolving Conflict

Prior to the amendment, Law 44-1985's definition of a "qualified individual with a disability" specifically excluded all active users of illegal substances, as defined by federal law. Since marijuana is illegal under federal law, medical cannabis patients were not protected under the statute.

This exclusion appeared to conflict with Puerto Rico's Law 15-2021, which created a protected category for registered and authorized patients. Law 15-2021 provides that an employer cannot discriminate against registered and authorized patients of medical cannabis in the recruitment, hiring, designation, or termination process or when imposing disciplinary actions. For more on Law 15-2021, see our article, [Registered and Authorized Medical Cannabis Patients in Puerto Rico Gain Employment Protections](#).

With the new amendment, the apparent conflict has been reconciled.

Next Steps for Employers

For employees who comply with the requirements to be an authorized medical cannabis patient, employers will have to go through an interactive process with the employee to determine if the use may be accommodated.

Importantly, at this time, the ADA does not protect cannabis patients since it is an illegal substance under federal law. For employees in Puerto Rico, however, the more beneficial protections apply.

Employers should revise their practices and policies to comply with the new amendment.

Please contact a Jackson Lewis attorney if you have questions or need guidance handling this and other workplace issues.

Karina Rodríguez

Associate

787-522-7318

Karina.Rodriguez@jacksonlewis.com

Related Services

Disability, Leave and Health

Management

Drug Testing and Substance Abuse

Management

National Compliance and Multi-

State Solutions

©2022 Jackson Lewis P.C. This material is provided for informational purposes only. It is not intended to constitute legal advice nor does it create a client-lawyer relationship between Jackson Lewis and any recipient. Recipients should consult with counsel before taking any actions based on the information contained within this material. This material may be considered attorney advertising in some jurisdictions. Prior results do not guarantee a similar outcome.

Focused on employment and labor law since 1958, Jackson Lewis P.C.'s 1,000+ attorneys located in major cities nationwide consistently identify and respond to new ways workplace law intersects business. We help employers develop proactive strategies, strong policies and business-oriented solutions to cultivate high-functioning workforces that are engaged and stable, and share our clients' goals to emphasize belonging and respect for the contributions of every employee. For more information, visit <https://www.jacksonlewis.com>.