Frequently Asked Questions

1) Does the Michigan Medical Marijuana Act (MMMA) give a qualified patient or registered primary caregiver the right to use or possess marijuana?

   a. No. The MMMA creates a procedure through which seriously ill individuals using marijuana can be identified and protected from prosecution under state law. The possession, use, sale, delivery, or manufacture of marijuana remain crimes in Michigan under MCL 333.7212. Therefore, qualified patients and registered caregivers will still be in violation of MCL 333.7212 but will not be arrested if they follow the procedures of the MMMA. Further, The Supreme Court of the United States held that an individual who uses medical marijuana in accordance with their respective state’s law may still face prosecution under the Controlled Substance Act. It’s important to understand that the MMMA offers qualifying patients narrow exemptions from prosecution and arrest under Michigan’s Laws but NOT federal law such as the Controlled Substance Act. Therefore, qualified patients and caregivers under the MMMA will still be violating federal law and be considered to be using an illegal controlled substance.

2) Does Michigan’s prohibition against smoking in public places and food service establishments include the smoking of medical marijuana?

   a. No, but public smoking of marijuana is prohibited under the MMMA. The Smoking Ban only prohibits the smoking of “Tobacco Products” in public places and food service establishments. The MMMA, however, does prohibit the smoking of marijuana on any form of public transportation or in any public place.

3) Is my Apartment Building considered a “Public Place” under the MMMA’s Ban on smoking marijuana in public places?

   a. The Attorney General of Michigan stated in a recent opinion that, “the [MMMA] prohibits qualified registered patients from smoking marijuana in the public areas of food service establishments, hotels, motels, apartment buildings, and any other place open to the public.”
4) May qualified patients smoke medical marijuana within their individual room, unit, or any other area of an apartment building not open to or accessible by the public?

   a. The MMMA does not explicitly state that medical marijuana may NOT be smoked in non-public areas; however, the federal government remains free to enforce the criminal provisions of the Controlled Substance Act against Michigan citizens who are qualified registered patients or caregivers under the MMMA.

5) Do I have to tell my landlord that I am a qualified patient under the MMMA?

   a. It is up to you to decide whether or not to tell your landlord that you are a qualified patient under the MMMA.

6) Can my Landlord evict me for smoking in my unit even though I’m a qualified registered patient under the MMMA?

   a. The MMMA does not speak to this issue; however, many if not all leases allow the Landlord to evict a tenant for carrying out illegal activity on the premises. The smoking of Medical Marijuana is still a violation of Federal Law and the Landlord may evict you for that violation. The problem is that the Landlord has the discretion to evict or not to evict you.

7) What if I live in Subsidized Housing? I know that Federal Law does not allow me to use Medical Marijuana so can I still be evicted for smoking Medical Marijuana within my unit?

   a. The admission and termination standards for subsidized housing are found in the Quality Housing Work and Responsibility Act of 1998(QHWRA). Under these standards the Public Housing Authority, who is administering your subsidy, have the discretion to evict, or refrain from evicting, a current tenant who the Public Housing Authority or owner determines is illegally using a controlled substance. Thus, while Public Housing Authority’s and owners may elect to terminate occupancy based on illegal drug use, they are not required to evict current tenants for such use.
8) I'm worried that I may be evicted by my Landlord! I live in subsidized housing, I'm disabled and because of my disability I am a qualified patient under the MMMA, can I apply for a Reasonable Accommodation so I can smoke medical marijuana in my unit?

   a. The Fair Housing Act, Section 504 of the Rehabilitation Act, and Title II of the Americans with Disabilities Act (anti-discrimination acts) prohibit discrimination against person with disabilities in federally assisted housing. One type of discrimination prohibited by all three statutes is the refusal to make reasonable accommodations in rules, policies, and practices when such accommodations are necessary to provide the person with disabilities with the full opportunity to enjoy a dwelling, service, program or activity.

   b. Public Housing Authorities may not grant reasonable accommodations that would allow tenants to grow, use, otherwise possess, or distribute medical marijuana, even if in doing so such tenants are complying with the MMMA. This is because the anti-discrimination acts do not recognize users of illegal drugs as disabled or handicapped. However, Public Housing Authorities have statutorily-authorized discretion with respect to evicting or refraining from evicting current residents on account of their use of medical marijuana.

9) If I'm denied housing, either subsidized or non-subsidized, because I'm a medical marijuana qualified patient does that amount to discrimination?

   a. In a recent opinion by the Attorney General of Michigan, it was stated that the refusal to rent, lease, or provide accommodation to a registered patient who engages or proposes to engage in the medical use of marijuana would NOT be based on a patient’s disability, but rather on the patient’s decision to treat that condition with marijuana. A Landlord who declines to rent, lease, or provide an accommodation to a medical marijuana qualified patient would not be committing discrimination and therefore would not be violating either the Elliott-Larsen Civil Rights Act or the Persons with Disabilities Civil Rights Act.