MYTHS & MISCONCEPTIONS:
MEDICAL MARIJUANA IN PSYCHIATRY

Q. My state has just passed legislation allowing the use of medical and recreational marijuana. I've already had patients asking me for a prescription. Will my policy cover my prescribing marijuana?

A. Proceed with extreme caution! Marijuana is currently a Schedule I controlled substance, which by definition, has no legitimate medical purpose, so it cannot legally be prescribed. Realizing that it cannot be "prescribed," state have used various terms other than prescription, such as a physician's "referral" or "recommendation" or "certification" or "order." Regardless of what the document written by the physician is technically called, the federal government may see it as illegal. If an insured physician is found to have committed a criminal act or civil violation, there can be significant consequences including, but not limited to, loss of license to practice and loss of professional liability insurance. While a limited defense may be provided under a professional liability insurance policy, if you are found guilty of a crime, there's no coverage under the policy to pay damages or penalties. Policies exclude coverage for illegal acts.

For more information, see:

- APA Resource Document: "Marijuana as Medicine" (https://www.psychiatry.org/psychiatrists/search- directories-databases/library-and-archive/resource-documents?_ga=1.145966519.2001716517.1465935554)
- Florida Bar Journal article: "Up in Smoke or Down in Flames? A Florida Lawyer's Legal and Ethical Risks in Advising a Marijuana Industry Client" (https://www.floridabar.org/divcom/jn/jnjournal01.nsf/8c9f13012b96736985256aa900624829/cf521b8a51d73dd685257f640075b666!OpenDocument)
- This article addresses the mistaken belief that the Department of Justice in its "Cole memorandum" provides immunity for individuals that are compliant with state law.

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