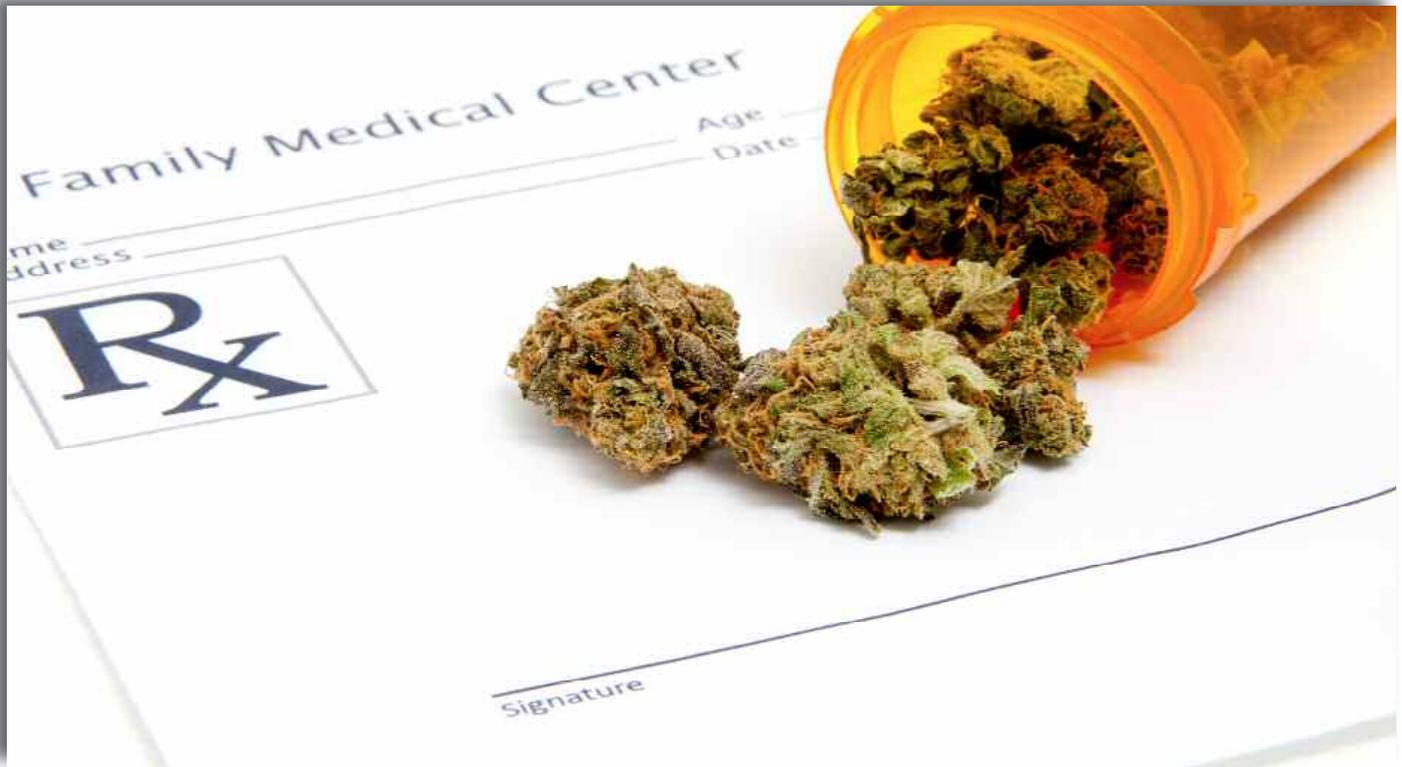


IT'S HIGH TIME TO TALK MEDICINAL MARIJUANA

BY NADEEN GREEN



Medical marijuana has been legal in California—and several other states—for several years. If you own or manage communities in the Golden State, you need to have a policy regarding residents' use of the substance on your property. (By the way, I have been told that a California case precludes employees from using medical marijuana while on the job.)

Many California communities are now smoke-free, either as a result of owner preference or local laws. Smoking is smoking—cigarettes, pipes, cigars, hookahs, roaches. You can forbid it all, but if, because of a disability, someone asks to smoke their medical marijuana as a reasonable accommodation, you will need to consider that request.

And unless such marijuana use becomes a nuisance (in the legal and lease sense—but be careful here in coming to that conclusion), or it conflicts with someone else's disability, you most likely must allow the resident this accommodation.

This is a complicated topic. Does smoking marijuana leave residue in an apartment? If so, is such residue “normal wear and tear” related to a disability? Can the owner deny the accommoda-

tion because of federal law (those Feds still maintain that the use of marijuana for any purpose is illegal)? Can the resident accomplish the same outcome—relief from pain and nausea, not to get high—through other means, such as another form of medication or another way to take in the marijuana (brownies, anyone?).

It seems to be that technically, in California, forbidding a disabled resident from using medical marijuana is a violation of state law and the Department of Fair Employment and Housing would have to pursue the case if denial of a disability accommodation was claimed by a resident.

So before you say no to medical marijuana, consider reaching out to your own counsel (because of course this post is not legal advice from either the author or her muse) to help you take the right road on this.

In some cases, it may be the high road. **NA**

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