

Rescheduling of Medical Cannabis:

New Requirements and Opportunities for Kentucky Licensees

- **Medical Cannabis Rescheduled With Legalization Pathway:** The U.S. Department of Justice announced on April 23, 2026 that medical cannabis products (those that are “subject to a state medical marijuana license”) and FDA approved products containing marijuana have been rescheduled to Schedule III.
- **Mandatory DEA Registration:** The Drug Enforcement Administration (DEA) is establishing an expedited federal registration process for entities holding state medical marijuana licenses, allowing early applicants (those who apply within 60 days of publication of the new rule in the Federal Register) to continue operating under their state licenses while their federal registration is pending. The rule, published on April 28, 2026, directs DEA to process applications submitted during this limited window “within six months.” DEA may deny an application if they determine that granting the application would “. . . be inconsistent with the public interest under the 21 U.S.C. § 823 factors or with the requirements of the Single Convention.” **Those who obtain a DEA Registration will be operating legally under federal law with respect to their medical cannabis products.** Medical cannabis businesses that do not file for a DEA registration within the expedited review period may be required to **cease operations** until obtaining such registration.
- The DEA has already released a new Medical Marijuana Dispensary Registration application and is in the process of developing new applications for the categories of Medical Marijuana Manufacturer, Medical Marijuana Bulk Manufacturer (grower/cultivator), Medical Marijuana Analytical Lab, and Medical Marijuana Distributor. It is critical to fill out applications completely and accurately, as well as to file within the 60-day expedited review period to ensure no impact to current or future operations.
- **280E & Medical Cannabis:** On the same day the final order was issued, Treasury released guidance stating that for businesses that apply for a DEA registration, the effect of the rescheduling order for purposes of Internal Revenue Code Section 280E is retroactive to the beginning of 2026. This means that qualifying medical cannabis businesses that file for and ultimately receive a DEA registration should not be subject to the Section 280E deduction disallowance for 2026. Additional guidance is expected in the coming weeks.
- State cannabis licensing frameworks remain otherwise unchanged.

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