

On November 8th, the number of states that have legalized recreational marijuana doubled, as California, Nevada, Massachusetts, and Maine voted “yes” on legalization measures.¹ Though Arizona rejected a similar legalization measure, three more states embraced legalization of marijuana for medicinal purposes.² Other states have taken steps toward acceptance of marijuana as well. Legislators in Texas, Virginia, and South Carolina filed bills at the start of the 2017 legislative session to legalize forms of marijuana, including for medical and recreational use.³ Governor of Vermont Peter Shumlin, for example, pardoned almost 200 people for misdemeanor marijuana convictions before leaving office in January 2017.⁴ While the Obama administration was lenient with states that legalized the drug, the policy of the incoming Trump administration is not yet determined. Questions about the future of marijuana legalization include questions about the future of medical marijuana.

President Trump advocated for the states’ autonomy in deciding marijuana policy during his campaign. Senator Jeff Sessions (R-AL), Trump’s Attorney General appointee, however, has professed his strong opposition to legalization of marijuana, including medical marijuana, on multiple occasions. Sessions stated in a congressional hearing that, “Good people don’t smoke marijuana,” and that the drug poses a strong danger to the population.⁵ During his confirmation hearing before the Senate Judiciary Committee, Senator Sessions asserted that enforcing federal marijuana law in states where the drug is legalized is “a problem of resources for the federal government.” Sessions suggested that he would use “good judgment” about how to handle marijuana cases and stated that a previous comment where he advocated the death penalty for second-time drug trafficking offenders was no longer his view today.⁶ In an interview with the *New York Times*, John Hudak, a scholar who has researched the intersection of federal and state marijuana laws at the Brookings, asserted that, as Attorney General, Senator Sessions would be able to void current Attorney General memos that defer enforcement of marijuana regulations to the states. Sessions could also sue states that have passed legalization provisions and thus failed to enforce federal policy⁷ and could pursue aggressive enforcement of federal policy in the states that have legalized the drug. It remains unclear whether the President will allow Sessions to implement the aforementioned policies, with 28 states now allowing at least medical marijuana usage.⁸ Press Secretary Sean Spicer has stated that President Trump understands there are “genuine concerns... about how young people have handled drugs and alcohol,” but Spicer also asserted that Sessions understands “it’s the Trump agenda that you’re administrating and not your own” when nominated to a cabinet position.⁹ Until the incoming administration announces its official policy on legalization, the Obama instructions to the Department of Justice still stand.

1 <http://www.nytimes.com/reuters/2017/01/03/us/03reuters-maine-marijuana.html>

2 https://www.washingtonpost.com/news/wonk/wp/2016/11/08/medical-marijuana-sails-to-victory-in-florida/?utm_term=.43602d21dccc

3 <http://www.ibtimes.com/which-states-will-legalize-marijuana-next-list-east-coast-states-more-considering-2478799>

4 <http://www.nytimes.com/2017/01/04/us/vermont-marijuana-pardons.html>

5 https://www.washingtonpost.com/news/wonk/wp/2016/11/18/trumps-pick-for-attorney-general-good-people-dont-smoke-marijuana/?utm_term=.071aaa466f99

6 <https://www.c-span.org/video/?420932-101/attorney-general-nominee-jeff-sessions-testifies-confirmation-hearing&start=4291>

7 <http://www.nytimes.com/2016/11/22/us/california-today-jeff-sessions-marijuana.html>

8 <http://www.ncsl.org/research/health/state-medical-marijuana-laws.aspx>

9 <http://insider.foxnews.com/2017/01/10/sean-spicer-outnumbered-donald-trump-transition-cabinet-confirmation-hearings>