

# Rhode Island Superior Court Decision Holds that Employers Cannot Refuse to Hire Medical Marijuana Cardholders

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The Rhode Island Superior Court recently issued a decision in [Callaghan v. Darlington Fabrics Corp.](#) holding that defendant employer violated Rhode Island's Hawkins-Slater Medical Marijuana Act ("the Act") by refusing to hire a prospective employee who was a medical marijuana cardholder. The ruling is a first in Rhode Island, and a departure from other states' decisions, such as [New Mexico](#) and [Colorado](#), that have found in favor of the employer.

During Callaghan's application process, she disclosed she was a medical marijuana patient, and acknowledged that she would fail the employer's required pre-employment drug screening. She also confirmed that she would not use marijuana at work or bring marijuana to work. Despite this, Callaghan was not hired based on her inability to comply with defendants' drug-free work policy or pass a drug test.

In her motion for summary judgment, plaintiff argued that defendants' action was unlawful pursuant to Section 21-28.6-4(d) of Rhode Island's medical marijuana act, which states that an employer may not refuse to employ someone solely for her status as a medical marijuana cardholder. Defendants argued that they did not refuse to hire Callaghan based on her status as a cardholder, but rather based on her use of a federally illegal substance, and therefore could not be held liable under the statute.

The Court rejected defendants' reasoning, holding the statute's plain language prohibiting an employer from denying employment based on a person's cardholder status also protects a cardholder's right to use medical marijuana. To construe the statute otherwise would render it meaningless, and its protections illusory.

This decision provides further guidance to employers in Rhode Island, who should be cognizant of the express protection provided for employees under its medical marijuana act in implementing hiring policies. However, employers should also be aware that the Act does not require employers to make accommodations for medical marijuana use, and specifically prohibits any person from undertaking any task under the influence of marijuana when doing so would constitute negligence or professional malpractice.

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