



Supervisor NEWSLETTER

Employee Assistance Program
October 2019

The Ripple Effect of Legalized Marijuana on the Workplace

By Jaime Carter-Seibert, MA, LMHC

Though illegal under Federal law, currently 11 states allow the recreational use of marijuana and another nine are expected to follow suit by 2024. Thirty-three states now allow medical marijuana and the remaining 18 will in the next five years, according to the State of the Legal Cannabis Markets report. Why, you ask? Because marijuana is a mega money-maker.

In 2018, global-licensed stores sold nearly \$11 billion worth of product. And Colorado, the first state to legalize cannabis, has been earning no less than \$20 million a month in taxes and fees since 2017. Washington state collected \$367.4 million in marijuana-related revenue in 2018, which suggests there's a clear financial incentive for states to legalize and tax marijuana.

While there is no legal right to use medical marijuana in the workplace, many use it at home for "qualifying medical conditions" as an alternative to traditional treatments and medications that may have been ineffective. Chronic pain is the primary reason people use medical marijuana with 95% of the medical marijuana cards issued for pain relief. Other qualifying conditions are glaucoma, Crohn's disease, hepatitis C, chronic renal failure, wasting diseases, and traumatic brain injuries. With respect to mental health, PTSD and anorexia are the only recognized qualifying conditions for treatment with medical marijuana at this time.

The FDA classifies marijuana as a Schedule I drug, like heroin and ecstasy, and considers it to be easily abused and without established medical value. Because of this, there has been limited research to discover and support claims of its medicinal benefits beyond reducing chronic pain, loosening rigid muscles due to MS, and lessening nausea and vomiting associated with chemotherapy. That said, research is beginning to increase due to the DEA's decision to facilitate an easier process for researchers. New information is greatly needed on the effectiveness of medical marijuana and instructions for patients on how to use it safely for the best treatment.

In states with legalized marijuana, issues with testing make it very murky for both employers and law enforcement. Unlike alcohol, there is no way to identify current impairment to substantiate reasonable suspicion at work or safety on the road. A device is in development that will measure THC in saliva on a test strip inserted into a reader. Currently, however, law enforcement must rely on field sobriety and blood and urine tests that can take from four hours to a week to process and then they can only indicate concentration of THC and not the current level of impairment.

After alcohol, marijuana is the drug found most often in drivers involved in traffic accidents. This substance slows reaction time, impairs coordination, and diminishes one's ability to judge time and distance, which all contribute to dangerous behavior behind the wheel.

In terms of impairment at work due to marijuana use, employers are wise to focus on job performance given there is no test to identify the drug's impact in real time. THC—the active ingredient in marijuana—is stored in fat cells, blood, and urine and is detectable up to a month even with abstinence during this time. Research has shown that the long-term effects of chronic marijuana abuse can compromise the brain

Continued on the next page.

First Choice Health™

Healthy Employees. Healthy Companies.™

(800) 777-4114



www.FirstChoiceEAP.com



Your EAP service is free, confidential and available 24/7 to help you balance your work, family, and personal life.

Continued from the previous page.

with complacency, and errors in thinking, learning, retaining, and judging. Chronic abuse can also produce effects similar to methamphetamine use, such as paranoia and psychosis, which are irreversible. Because the changes can happen slowly and subtly, there are no early warning signs until someone is no longer functional.

Another ripple effect from the legalization of marijuana is a cultural perception that it's *benign*. However, like alcohol, studies have shown that marijuana can be abused and may result in physical, psychological, and mental impairment jeopardizing one's well-being and many other facets of life. Edibles present another potential problem as it can take up to 3 hours for their effects to be felt—because of this, people can mistakenly believe the drug isn't working and consume greater amounts over a longer time and take considerably more than intended with a greater impact.

So what does all this mean to employers?

- A policy on legal and medical marijuana is imperative in order to respond appropriately and minimize risk to the company.
- Involving your legal counsel in policy-building is also advised to ensure that your knowledge of the evolving laws and caveats are clear and current. To date, most court cases have sided with employers for termination due to a positive UA for marijuana, but this is changing. Having a well-reasoned policy can help protect your company and guide you in next steps with employees who test positive for marijuana.
- Employees and organizations who are subject to federal Department of Transportation (DOT) regulations for their safety-sensitive covered employees are advised to review their regulations which prohibit the use of marijuana and other substances.
- For non-DOT employees, it's also important that your policy addresses employees in safety-sensitive jobs who could be at increased risk for accidents should they break the company's alcohol and drug policy. Having clear guidelines can help ensure workplace safety for all employees and reduce the company's liability.

- Knowing your company's stand on medical marijuana is essential so you can determine if medical marijuana cards are acceptable. If so, it is advisable to use legal counsel to help write the policy for the parameters for their use.
- Cannabis can be used discretely—when vaped, it is odorless and edibles can look like any other baked good. Because of this, it would be wise to address all forms of marijuana use in your policy.

This topic is a thorny one that is changing at a rapid pace. Your legal team can keep you apprised of changes in law and assist you in developing a strong plan to ensure a safe work environment for your employees, and risk management for your company. Please remember you can also lean on your EAP Account Executives anytime for consultation for workplace concerns. We are here for you at (800) 777-4114.

References:

<https://www.webmd.com/a-to-z-guides/medical-marijuana-faq>

<https://www.drugabuse.gov/publications/drugfacts/drugged-driving>

<https://www.doh.wa.gov/YouandYourFamily/Marijuana/MedicalMarijuana/PatientInformation/QualifyingConditions>

<https://www.justthinktwice.gov/article/drug-alert-marijuana-edibles>

<https://www.fool.com/investing/2019/09/21/better-marijuana-stock-emerald-health-therapeutics.aspx>

<https://www.tre.wa.gov/portfolio-item/washington-state-marijuana-revenues-and-health/>

First Choice Health[™]

Healthy Employees. Healthy Companies.[™]

(800) 777-4114



www.FirstChoiceEAP.com



Your EAP service is free, confidential and available 24/7 to help you balance your work, family, and personal life.