

Clearing the Smoke: Marijuana in Virginia's Public Sector Workplace

Virginia Municipal League

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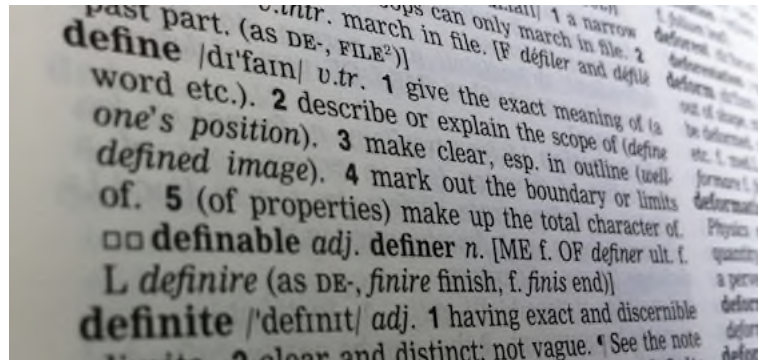
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Agenda

1. Disconnect Between Federal and State Laws
2. Recent Virginia Laws on Marijuana
 - Background checks/simple possession
 - Cannabis Oil Statute
 - Legalization of Marijuana
3. Recommended Workplace Policies/Approaches
 - Background Checks
 - Drug-Free Workplace Policies
 - Americans with Disabilities Act
 - Drug Testing Implications
 - Reasonable Accommodations
 - HIPAA implications
 - Collective Bargaining Implications
 - Transportation Issues

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DEFINITIONS



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Cannabis

- *Cannabis species*
 - *Cannabis sativa*
 - *Cannabis indica*
 - *Cannabis ruderalis*
- Contains many chemicals; over 100 "cannabinoids" including
 - Cannabidiol (CBD)
 - Tetrahydrocannabinol (THC)



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Hemp (aka “Industrial Hemp”)

- Classifies varieties of *cannabis* that contain 0.3% or less THC
- Strong, natural fiber used for many things including rope, canvas, clothing, paper, food, building materials, and more
- Legitimized by the Agricultural Act of 2018 (“2018 Farm Bill”) in all fifty states



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Marijuana

- Classifies varieties of *cannabis* that contain more than 0.3% THC
- Medical and recreational use
- Illegal under federal law as a Schedule 1 narcotic under the Controlled Substance Act (CSA), *see* 21 U.S.C. § 812(b)(1)
- Method of consumption
 - Smoking leaves, buds, vaping oil
 - Oral pills, edibles, ingestible oils
- Absorption, metabolism, and secretion of chemical compounds significantly impacted by the method of consumption

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CBD: Cannabidiol

- Nonpsychoactive
- Benefits: analgesic, antianxiety, anti-inflammatory, and pain-relieving
- Derived from hemp = Legal in all 50 states
 - 2018 Farm Bill
 - Cannot legally contain more than 0.3% THC
- Derived from marijuana = treated like marijuana

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THC: Tetrahydrocannabinol

- Primary chemical that creates most of the intoxicating, psychological effects of cannabis
 - Releases dopamine
 - Hallucinations
 - Memory Loss
 - Impaired impulse control
 - Emotional changes (anxiety, paranoia, panic attacks)
 - Decreased complex motor skills
 - Interference with attention span
- Effects of THC last about two hours

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Federal Laws



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Congressional Authority

- Congress may permissibly regulate marijuana under the Commerce Clause. See *Gonzales v. Raich*, 545 U.S. 1, 33 (2005).
- Congress has approved a budget amendment that prohibits the Department of Justice from using funds to prevent states from implementing their medical marijuana laws.
 - Known as the "Rohrabacher-Farr" or "CJS amendment"
 - Must be acted on each year to keep it in place = future is unknown



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Controlled Substances Act, 21 U.S.C. § 812(b)

Marijuana (specifically, THC) remains classified as a Schedule I substance under the CSA because:

- THC has a high potential for abuse
- THC has no currently accepted medical use in treatment in the US
- There is a lack of accepted safety for use of THC under medical supervision

The growth, distribution, use, manufacture, and possession of marijuana remains illegal under federal law . . . for now.

Bill To Federally Legalize Marijuana Reintroduced In Congress As Senate Prepares Separate Measure



Published 6 days ago on May 28, 2021
By Kyle Jaeger

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Drug-Free Workplace Act of 1988

- The Drug-Free Workplace Act [41 U.S.C. § 8101 et seq.](#) (DFWA) requires certain federal contractors and federal grant recipients to maintain drug-free workplaces.
- DFWA applies to federal contractors who:
 - Enter into federal contracts valued at \$100,000 or more, or
 - Receive a federal grant (both grantees and sub-grantees)
- Employees must be prohibited from manufacturing, distributing, possessing or using controlled substances.

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2018 Farm Bill

- The Agricultural Improvement Act of 2018
- Made hemp federally legal and declassified as a Schedule I controlled substance under the Controlled Substances Act



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Food & Drug Administration (FDA)

- FDA regulates all cannabis products per the Food, Drug, and Cosmetic Act, see 15 U.S.C. § 1451
 - BUT: FDA does not certify the levels of THC in CBD products (i.e., Buyers beware!)
- Currently illegal to add CBD to food or dietary supplements
- FDA has approved only one CBD product: a prescription drug for the treatment of seizures associated with tuberous sclerosis complex (TSC), Lennox-Gastaut syndrome (LGS) and Dravet syndrome (DS)
- Recent guidance issued on November 25, 2019, titled [What You Need to Know \(And What We're Working to Find Out\) About Products Containing Cannabis or Cannabis-derived Compounds, Including CBD](#)

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U.S. Attorney General Authority

- 21 U.S.C. § 811(a)(2) grants the Attorney General the power to "remove any drug or other substance from the schedules if he finds that the drug or other substance does not meet the requirements for inclusion in any schedule"
- Further, 21 U.S.C. § 812(a) calls for updating and republishing the schedules annually

Even if marijuana is legal at the state level, the federal government is nonetheless permitted to enforce federal law and punish the cultivation or possession of the drug.

U.S. Attorney General Policy Position

- 5/4/21: Merrick Garland said the Justice Department would not be using its limited resources to prosecute people using marijuana in compliance with state law.
 - However: "I do think we need to be sure, for example, that there are no end runs around the state laws by criminal enterprises, and that access is prohibited to minors."
- Reinstates policies under President Obama, i.e., the "Cole Memorandum"
 - 2013 Memorandum directing federal prosecutors not to interfere with state polices and regulations *despite* the federal government's authority to do so
 - President Trump's first AG rescinded the Cole Memorandum
 - His next AG, William Barr, pledged to abide by the Cole Memorandum

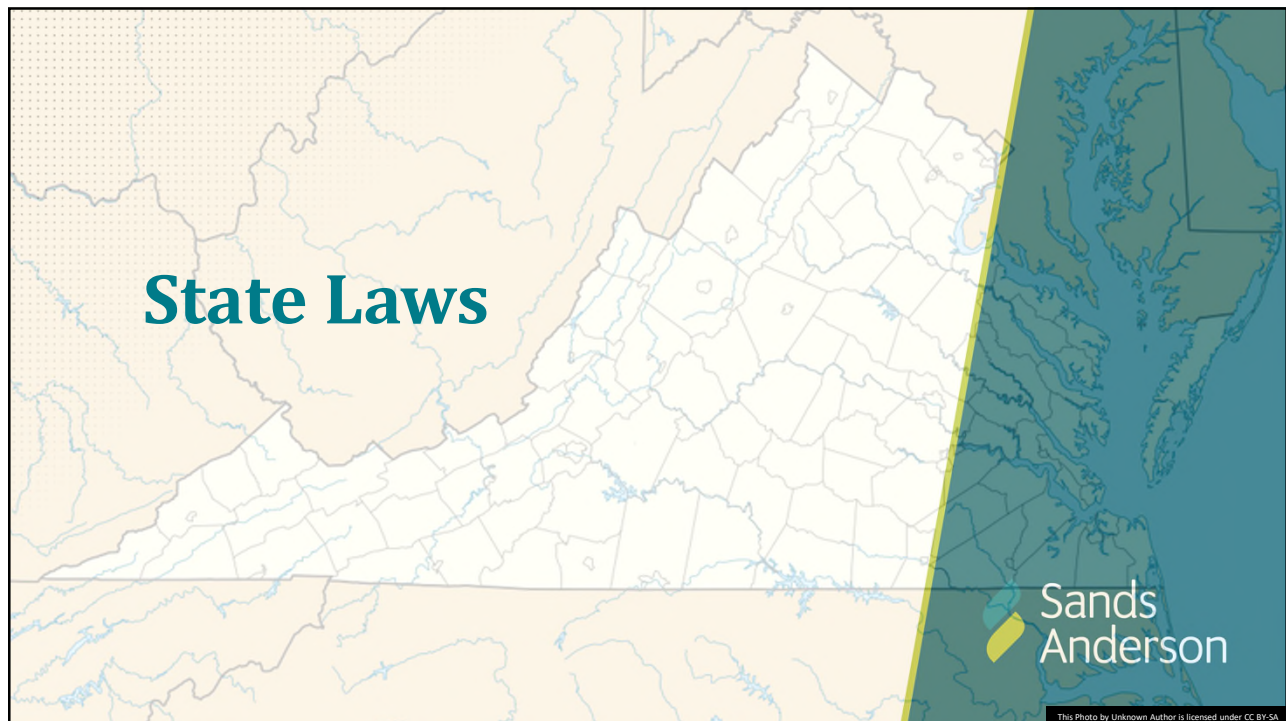
Trends in Federal Law

- President Biden has pledged to decriminalizing marijuana nationwide
- **Marijuana Opportunity Reinvestment and Expungement (MORE) Act**
 - Passed December 4, 2020 but did not advance to the Senate
 - De-schedule marijuana
 - Remove criminal sanctions
 - Provide relief from past convictions
 - Allow states to still regulate cannabis
 - Reintroduced at the end of May 2021 with many companies (e.g., Amazon) and social justice organizations (e.g., Human Rights Watch) urging support
 - Uncertainty: Not unanimous among Democrats; Speculation of mere reduction from Schedule I to Schedule II

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States Start Legalizing Marijuana

1990s: Only 5 states plus D.C. permitted the medical use of marijuana

2012: Colorado voters passed Amendment 64, legalizing marijuana for adult recreational use

As of 3/30/21: Sixteen states protect medical marijuana users from discrimination

2021: Virginia will be the 16th state (plus the District) to legalize marijuana for adult recreational use

Medical Marijuana Continues Virginia Expansion

- Virginia previously allowed the medical use of marijuana only by qualifying patients for treatment of cancer or glaucoma, pursuant to a valid prescription issued by a medical doctor in the course of his or her professional practice. [Va. Code Ann. § 18.2-251.1](#).
- Effective March 1, 2021, Virginians may legally possess marijuana “if the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner ***while acting in the course of his professional practice***” Va. Code Ann. 18.2-250.1(A).
- The provisions of this section involving marijuana in the form of cannabis oil . . . shall not apply to any person who possesses such oil pursuant to a valid written certification issued by a practitioner in the course of his professional practice pursuant to § [54.1-3408.3](#) for treatment or to alleviate the symptoms of (i) ***the person's diagnosed condition or disease***” Va. Code Ann. 18.2-250.1(E).

Va. Code Ann. § 54.1-3408.3. **Certification for use of cannabis oil for treatment.**

"Cannabis oil" means any formulation of processed Cannabis plant extract, which may include oil from industrial hemp extract acquired by a pharmaceutical processor pursuant to § 54.1-3442.6, or a dilution of the resin of the Cannabis plant that contains at least five milligrams of cannabidiol (CBD) or tetrahydrocannabinolic acid (THC-A) and no more than 10 milligrams of delta-9-tetrahydrocannabinol per dose. *"Cannabis oil"* does not include industrial hemp, as defined in § 3.2-4112, that is grown, dealt, or processed in compliance with state or federal law, unless it has been acquired and formulated with cannabis plant extract by a pharmaceutical processor.

It's still illegal, for now, but...

- Beginning July 1, 2021:
 - Virginians over the age of 21 will be able to legally possess (up to 1 ounce) and cultivate (four plants) of marijuana.
 - Possession of more than an ounce is punishable as a civil offense with a fine of up to \$25.00.
 - Possession of more than a pound of marijuana is a felony punishable by up to 10 years in jail and a fine of up to \$250,000.
 - Open use of marijuana or cannabis products remains illegal.
- Until then, possession of any amount of marijuana (except prescription cannabis oil) remains unlawful and punishable by a civil fine of up to \$25.00. However, violations may no longer be included on an individual's criminal background check.
- A new term that we'll be hearing often:
 - "Cannabis product" means a product that is (i) produced by a pharmaceutical processor, registered with the Board, and compliant with testing requirements and (ii) composed of cannabis oil or botanical cannabis.

Virginia's Future Marijuana Marketplace: A New "Authority" Emerges

- Although many states tasked their existing alcoholic beverage control agencies with regulating legal marijuana, Virginia decided to create an entirely new agency: the Virginia Cannabis Control Authority (the "Authority"), which falls under the Governor's Secretary of Public Safety and Homeland Security.
 - **Beginning July 1, 2023**, the Authority will begin accepting application for retail licenses for the sale of cannabis products.
 - **Beginning January 1, 2024**, retail sales of cannabis products will commence.
 - **No monopolies:** Vertical integration (cultivation, processing, and retail sale) is prohibited.
- The General Assembly must reenact the enabling legislation in order for the marijuana regulatory framework and criminal penalties to become law.
- Marijuana legalization, however, does not require reenactment.

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Marijuana Users: A New Category of Protected Employees?

§ 40.1-27.4. Discipline for employee's medicinal use of cannabis oil prohibited.

A. As used in this section, "cannabis oil" means the same as that term is defined in § 54.1-3408.3.

B. *No employer shall discharge, discipline, or discriminate against an employee for such employee's lawful use of cannabis oil pursuant to a valid written certification issued by a practitioner for the treatment or to eliminate the symptoms of the employee's diagnosed condition or disease pursuant to § 54.1-3408.3.*

C. Notwithstanding the provisions of subsection B, nothing in this section shall

(i) restrict an employer's ability to take any adverse employment action for any work impairment caused by the use of cannabis oil or to prohibit possession during work hours,

(ii) require an employer to commit any act that would cause the employer to be in violation of federal law or that would result in the loss of a federal contract or federal funding. . . .

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The slide features a background image of a pair of glasses and a blue pen resting on a document with the words 'EMPLOYEE HANDBOOK' faintly visible. A teal diagonal bar is on the right side.

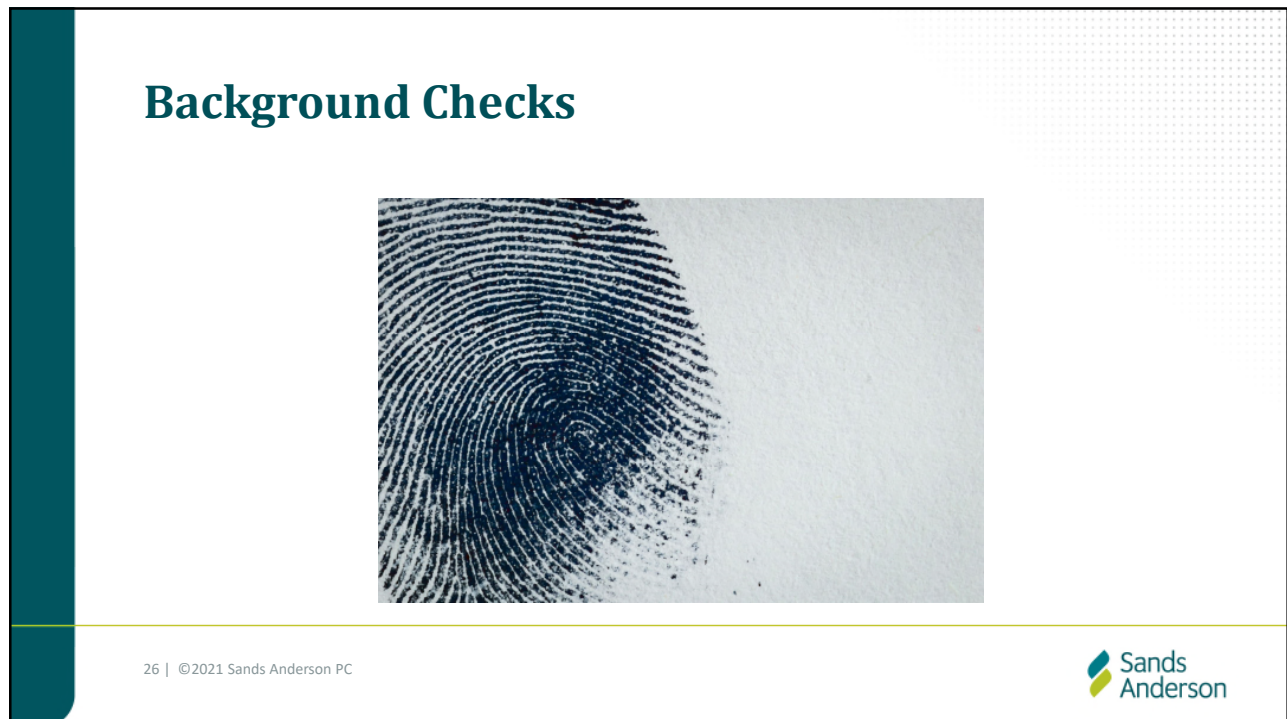
Workplace Policies & Approaches

Tip for navigating the murky waters created by conflicting state and federal marijuana laws


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The slide has a teal vertical bar on the left and a background image of a fingerprint.

Background Checks



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Simple Possession, Decriminalized

- Simple possession (up to 1 oz) for marijuana (arrests, charges, convictions) can no longer be part of a person's criminal history record in Virginia. See Va. Code § 19.2-389.3
 - Virginia employers shall not require disclosure in any "application, interview, or otherwise" of any applicant
 - Note: Localities shall not require disclosure of such information from any applicant for a license, permit, registration, or governmental service either
 - Willful violations: Class 1 misdemeanor
 - Misdemeanor convictions now subject to automatic expungement
- Strategically choose job categories for background checks
 - Safety-sensitive (e.g., bus drivers) = Continue to screen
 - Different considerations for non-safety/non-public positions

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Drug Free Workplace Policies



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Striking the Right Balance is Key

- Federal law still lists all forms of marijuana (but not CBD) on the controlled substances list.
- Employers can still take adverse actions against employees in order to:
 - Comply with federal law
 - Comply with and/or prevent the loss of a federal contract, or
 - Prevent the loss of federal funding.
- Public sector employees should review their funding sources and document their requirements for complying with federal law in order to support policies that continue to prohibit marijuana use
- Impairment and possession on employer property can still be prohibited.
- The new Virginia law's *protections only apply to cannabis oil*.

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DFWA Drug Free Policy Requirements

DFWA applies to federal contractors who:

- Enter into federal contracts valued at \$100,000 or more, or
- Receive a federal grant (both grantees and sub-grantees)

Requirements

- Certification of a drug-free workplace
- Drug-free awareness program designed to educate employees about drug abuse
- Drug-free policy, with notice to employees about possible disciplinary action
- Counseling and rehabilitation program
- Employees convicted of criminal drug use must inform employer within 5 days and participate in a drug rehabilitation program

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Several Virginia Laws Continue to Require and/or Incentivize Drug Free Workplaces

- Virginia employers with state contracts over \$10,000 must agree to establish a drug-free workplace policy (although there are no testing requirements). [Va. Code Ann. § 2.2-4312](#).
- Under Virginia's Workers' Compensation Act, private employers that implement a drug-free workplace program are entitled to a workers' compensation policy premium discount of up to 5%. [Va. Code Ann. § 65.2-813.2](#).

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Americans with Disabilities Act



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ADA – Disability, Defined

A disability is to be construed broadly under the ADA and is defined as:

- A) A physical or mental impairment that substantially limits one or more major life activities;
- B) A “record” of such impairment; OR
- C) Being “regarded as” having such an impairment, meaning an actual *or perceived* physical or mental impairment motivated an adverse employment action.

42 U.S.C. Section 12102(2)(A)-(B).

What Qualifies as a Physical or Mental Impairment?

Major life activities include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working.

Major bodily functions

For purposes of paragraph (1), a major life activity also includes the operation of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

42 U.S.C. Section 12102(2)(A)-(B)

The ADA Does Not Require Employers to Accommodate Employees for Use of Drugs that are Illegal Under Federal Law

(a) Qualified individual with a disability

For purposes of this subchapter, a qualified individual with a disability ***shall not include any employee or applicant who is currently engaging in the illegal use of drugs***, when the covered entity acts on the basis of such use.

42 U.S.C. Section 12114(a).

In general the term ***“illegal use of drugs” means the use of drugs, the possession or distribution of which is unlawful under the Controlled Substances Act*** [21 U.S.C. 801 et seq.]. Such term does not include the use of a drug taken under supervision by a licensed health care professional, or other uses authorized by the Controlled Substances Act or other provisions of Federal law.

42 U.S.C Section 12111(6)(A).

Drug Testing



Employee Termination for Off-Duty Use

- ***Coats v. Dish Network (2015)***: Colorado employee sued for wrongful termination after testing positive for marijuana for recreational use outside of work hours
- Colorado law prohibits termination as a discriminatory or unfair employment practice if the employee is fired for engaging in “lawful activity” off the employer’s premises during nonworking hours
- Colorado legalized marijuana in 2012
- Colorado Supreme Court: **Because federal law still recognizes marijuana as illegal, the employer was free to terminate the employment after a positive test from off-duty use.**

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DFWA and Drug Testing

- DFWA itself does not require drug-testing for federal contractors
- Courts have found that federal contractors are free to hire workers who use marijuana under state law during off-duty hours
- Regardless, a clear drug-testing policy will help maintain a drug-free workplace as required for federal contractors

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ADA & Drug Tests

Medical inquiries/exams must be “job-related and consistent with business necessity.” See 42 U.S.C. § 12112(d)(4)(A).

- Justified by a reasonable belief based on objective evidence that:
 - *Employee’s ability to perform essential job functions will be impaired or*
 - *Employee will pose a direct threat*

Drug tests for current, illegal drug use are not medical examinations under the ADA

- Random tests okay only for the use of illegal drugs, esp. for safety and security sensitive positions
- No random drug testing for legally obtained prescription drugs
- However, alcohol testing is a medical exam (i.e., must be job-related/consistent with business necessity; “reasonable suspicion” required)

ADA & Drug Tests, cont’d

“Reasonable suspicion” drug testing permitted for observations of current employee’s conduct, behavior, appearance, or body odors that are:

- Specific
- Contemporaneous
- Articulable

Avoid impermissible disability inquiries during the hiring process

- Okay to ask about illegal drug use (**subject to new Virginia law prohibiting inquiry into simple possession of marijuana**)
- Avoid questions about prior drug addictions
- Avoid questions about legal prescription drug use

ADA & Drug Tests, cont'd

Pre-offer stage:

- No medical examinations allowed
- Okay to test for current, illegal drug use
 - *BUT: Avoid hiring decisions based on testing for trace amounts that indicated past usage Conditional offer stage*

Conditional job offer stage:

- Okay to conduct medical exams
 - *Okay to test for alcohol*
- Medical exams must be of all applicants in the same job category

Offers may be rescinded only if:

- Positive test for current, illegal drug use
- Applicant cannot perform the essential functions of the job
- Applicant would constitute a direct threat to himself or others
- Applicant refuses to submit to a lawful medical exam

Omnibus Transportation Employee Testing Act of 1991

Applies to all safety-sensitive transportation employees, including commercial motor vehicle operators required to maintain a commercial driver's license (CDL)

Employers must

- Test employees for drugs if there is a "reasonable cause or suspicion" that:
 - *Employee is under the influence while on the job, or*
 - *Employee is involved in a work-related accident*
- Implement a random drug testing program
- Use certified lab recognized by the Dep't of Health and Human Services
- Use a qualified Medical Review Officer (MRO) to review all tests
- Provide employee opportunity to consult with MRO before results provided
- Provide drug and alcohol awareness training and education to all employees
- Additional 2 hours of training for supervisors on detection, documentation, intervention
- Refer any employee with a substance abuse problem to a trained substance abuse professional to evaluate treatment needs and determine fitness for duty

Constitutional limitations to Drug Tests

Skinner v. Ry. Labor Executives' Ass'n, 489 U.S. 602 (1989)

- Blood and urine collection of job applicants and employees are permitted so long as they are “minimally intrusive” and consistently applied (i.e., permit public employees to urinate in private)

Best Way to Test for Marijuana

- Positive test results for THC can mean both recent and past marijuana use
- The presence of THC in a person's system can depend on frequency, metabolism, hydration, and many other factors. Research from 2017:
 - First time user: 3 days
 - Use 3-4 times per week: 5-7 days
 - Daily use or more: 30 days
- Different tests yield different results (urine, saliva, hair, blood)
 - Urine: 3-30 days
 - Saliva: 24-72 hours
 - Hair: 90 days (but can yield false positives)
 - Blood: 3-4 hours

Employers Choosing Not to Test

Philadelphia, PA recently enacted a law in May 2021 banning pre-employment testing effective January 1, 2022, except for:

- law enforcement
- CDL owners
- Caretakers for children, medical patients, people with disabilities, and other vulnerable people
- Positions that significantly impact the health or safety of other employees or the public

Amazon will no longer test its employees for marijuana

The company is officially going 420 friendly.

By Anagha Srikanth | June 2, 2021

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Drug Test Policy Elements

1. Inform employees that drug and alcohol testing occurs based on reasonable suspicion
2. Require documentation on the source of information that an employee may be using drugs or alcohol on the job
3. Observe employee and document all signs of intoxication (smell, eye dilation, inability to walk or stand, slurred speech, abnormal behavior)
4. Immediately remove safety- and security-sensitive positions
5. Determine whether employee has a serious disability or medical condition
6. Determine whether reasonable suspicion exists
 - If not, keep documentation on file
 - If yes, send employee for testing
7. Report observations to employee and obtain employee response
8. Notify of consequence for refusal to submit to drug test and obtain consent
9. Obtain results and take action

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Remember to . . .

- Inform all applicants that testing will be part of the interview process
- Use random testing only for current, illegal drug use or safety and security sensitive positions
- Avoid testing for prescription drugs unless there is a direct threat to public safety or if it would explain a positive test for illegal drugs
- Train supervisors on the signs of drug usage and how to report reasonable suspicions of substance abuse
- Keep all drug test results confidential
- Consult with legal counsel before taking adverse action

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Interactive Process



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Employers Should Still Engage in the Interactive Process

What must an employer do after receiving a request for reasonable accommodation?

The employer and the individual with a disability should engage in an informal process to clarify what the individual needs and identify the appropriate reasonable accommodation. The employer may ask the individual relevant questions that will enable it to make an informed decision about the request. This includes asking what type of reasonable accommodation is needed.

May an employer ask an individual for documentation when the individual requests reasonable accommodation?

Yes. When the disability and/or the need for accommodation is not obvious, the employer may ask the individual for reasonable documentation about his/her disability and functional limitations. The employer is entitled to know that the individual has a covered disability for which s/he needs a reasonable accommodation.

Interactive Process, cont.

Is an employer required to provide the reasonable accommodation that the individual wants?

The employer may choose among reasonable accommodations as long as the chosen accommodation is effective. Thus, as part of the interactive process, the employer may offer alternative suggestions for reasonable accommodations and discuss their effectiveness in removing the workplace barrier that is impeding the individual with a disability.

May an employer require an individual with a disability to accept a reasonable accommodation that s/he does not want?

No. An employer may not require a qualified individual with a disability to accept an accommodation. If, however, an employee needs a reasonable accommodation to perform an essential function or to eliminate a direct threat, and refuses to accept an effective accommodation, s/he may not be qualified to remain in the job.

No Disability Discrimination Found for Termination Based on Medical Marijuana Use

- **Swaw v. Safeway (2015):** Washington employee tested positive from using medical marijuana with a valid prescription while off-duty
- Safeway terminated his employment for using an illegal substance under federal law
- Employee sued the employer for disability discrimination
- Court upheld the termination, finding that employers are not required to allow medical marijuana use in the workplace

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Disability Discrimination Claim Allowed for Termination Based on Medical Marijuana Use

- **Barbuto v. Advantage Sales and Marketing (2017):** Massachusetts employee disclosed her medical marijuana prescription use to treat her Crohn's disease
- On her second day of work, she tested positive and was terminated
- Employee sued for disability discrimination under state law
- Massachusetts Supreme Judicial Court: First appellate court to hold that medical marijuana users could assert disability discrimination claims

Employers should approach medical marijuana with an "interactive process" to search for a reasonable accommodation

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HIPAA Implications



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Confidentiality of Personal Health Info

- PHI will likely include dispensary information for medical marijuana
- Information gathered about an employee's medical condition through a drug test must be treated as confidential
- Do not use information gathered about an employee's medical condition when making employment decisions
- Keep drug test results confidential except as needed to take the necessary appropriate action. See EEOC Technical Assistance Manual, § 8.9; 29 C.F.R. § 1630.16(c)(3).
- Keep employee medical information protected from FOIA requests

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Transportation Issues



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Transportation Issues

- The U.S. Department of Transportation has clarified that states' legalization of marijuana has not modified its drug-related regulations
 - Employers must continue to follow DOT-regulated employees
 - Includes all individuals employed to drive under a commercial driver's license (CDL)
- DOT requires testing for marijuana, not CBD
- DOT does not authorize marijuana for any reason
- CBD is not a legitimate medical explanation for a positive result for the DOT
- Virginia law: Possession while operating a commercial motor vehicle must be reported to the Department of Motor Vehicles and included on the individual's driving record. See Va. Code 18.2-250.1(B).

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Collective Bargaining Implications



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Collective Bargaining Implications

- As of May 1, 2021, Virginia localities may pass an ordinance or resolution which allows for: (1) the recognition of unions or employee associations as the exclusive bargaining representatives for certain segments of their workforces; and (2) collective bargaining with such exclusive representatives. See Va. Code § 40.1-57.2(A).
- Localities may also choose to pass an ordinance or resolution which makes clear that they will not authorize exclusive bargaining agents and/or collective bargaining.
- No locality will be required to authorize collective bargaining, and no resolution or ordinance which authorizes collective bargaining shall restrict the locality's authority to establish its budget or to appropriate funds. Va. Code § 40.1-57.2(B).

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Collective Bargaining Implications, cont.

Concerted Activity: Under federal labor law (which does not apply to local governments), concerted activity occurs when two or more employees take action for their mutual aid or protection regarding terms and conditions of employment, including engaging in, or refraining from engaging in, collective bargaining.

29 U.S.C. Section 157.

Despite the conflict between state and federal marijuana laws, employees may still engage in protected concerted activity regarding the use of marijuana. For example, employees may band together in support of a collective bargaining provision that bans testing for marijuana use during non-work hours. Employers should carefully navigate these issues if and when they arise during consideration and/or implementation of collective bargaining ordinances.

Virginia's New Marijuana Laws

- DO protect medicinal cannabis oil users from discrimination
- Do NOT restrict an employer's ability to take any adverse employment action for any work impairment caused by the use of cannabis
- Do NOT restrict an employer's ability to prohibit possession during work hours.
- Do NOT require an employer to commit any act that would cause the employer to be in violation of federal law
- Do NOT require an employer to commit any act that would result in the loss of a federal contract or federal funding
- Do NOT require any "defense industrial base sector employer or prospective employer" to hire or retain any applicant or employee who tests positive for THC in excess of specified amounts

Questions?

Thank you for your time!



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