



S3 Conference

Screening ❖ Safety ❖ Strategy

Hosted by DISA Global Solutions

CANNABIS AT WORK:

Testing Rules, Rescheduling, and Safety



HELLO!

I am Jo McGuire

I am here because I am passionate about workplace safety and using best practices to create practical, balanced, sensible policies.

You can find me at @jo_truth



01

TRENDS IN CANNABIS LAW

And what it means for the workplace



WHAT'S TRENDING WITH MARIJUANA LAWS?

State laws are routinely being assessed, and the federal landscape is shifting



TRENDING: IMPAIRMENT

Many states are focused on whether or not an employee is impaired during working hours.

SIGNS & SYMPTOMS ARE KEY

MN – as of 1/1/26 employers must give 14 days' written notice prior to adverse action.

Stay vigilant and aware of state laws

HEMP BILL CHANGES

November 2026

- ❖ Definitions of hemp will be based on total THC concentration rather than simply Delta-9
- ❖ Ban on lab-made (synthetic) Delta-8 & Delta-10
- ❖ The question on this issue is: how enforcement will take place

Pay attention to definitions of cannabis versus hemp versus marijuana



EO 14370 to Reschedule Marijuana

December 18, 2025

- ❖ Stated goal: Increase access to research
- ❖ Move from Schedule I to III
- ❖ Administrative process ensues

As of today, marijuana still remains a CSA Schedule 1 drug.

Schedule I → Schedule III

What Would Change?

- ❖ Raw marijuana would be classified as a medicine
- ❖ The federal government *should* create a framework for how to dose and prescribe
 - Whether this will happen is of interest & concern
- ❖ Employees could obtain a valid prescription
 - HIPAA and ADA protections would apply

Full impact to DOT & HSS testing program is somewhat murky





EO 14370 Sec. 3(a)(i)

"Nothing in this order shall be construed to impair or otherwise affect: the authority granted by law to an executive department or agency, or the head thereof: or (ii) the functions of the Director of the [OMB] relating to budgetary, administrative, or legislative proposals."





02

SAFETY & POLICY

Strategies for Schedule III

DOT POLICIES

- ❖ Currently, no changes are required
- ❖ If rescheduling creates changes, the non-DOT policy may catch loopholes

Non-DOT POLICIES

- ❖ Review prescription medication policies
- ❖ Work with the MRO to determine best practices



Be Proactive: Plan, Prepare, Prevent



Non-DOT POLICIES

To hold up in court, a drug & alcohol safety policy must:

- ❖ Be current
- ❖ Compliant with state & federal laws
- ❖ Known to the employee (proof is required)
- ❖ Actively & consistently enforced
- ❖ Helpful but not required: articulate each position description's safety requirements

Routinely EDUCATE employees to increase awareness & fairness

SCHEDULE I ACCOMODATIONS

- ❖ Currently based on state laws.
- ❖ Most states do not accommodate medical marijuana.
- ❖ Those that address accommodations typically follow ADA guidelines.

SCHEDULE III ACCOMODATIONS

- ❖ Americans with Disabilities Act (ADA) could be applied federally.



Employers do not have to put their business in jeopardy to accommodate.



03

DRUG TESTING FOR THC

Is there a magic bullet?



DOT TESTING

- ❖ Urinalysis is still the option
- ❖ Oral fluid is being held up by the FDA
- ❖ Presence-in-system testing is the standard
- ❖ Cutoff levels rule out secondhand exposure

WHAT TEST TYPES ARE APPROPRIATE?



Non-DOT testing policies can offer an array of appropriate options.



Very Recent
**24-48
Hours**
Oral Fluid

Recent
**24-72
Hours**
Urine

Repetitive
**Up to
90 Days**
Hair

<https://blog.employersolutions.com/by-the-numbers-drug-detection-windows-by-specimen-type/>

Windows of detection are often misunderstood.
Approaching policies with accuracy **MATTERS!**

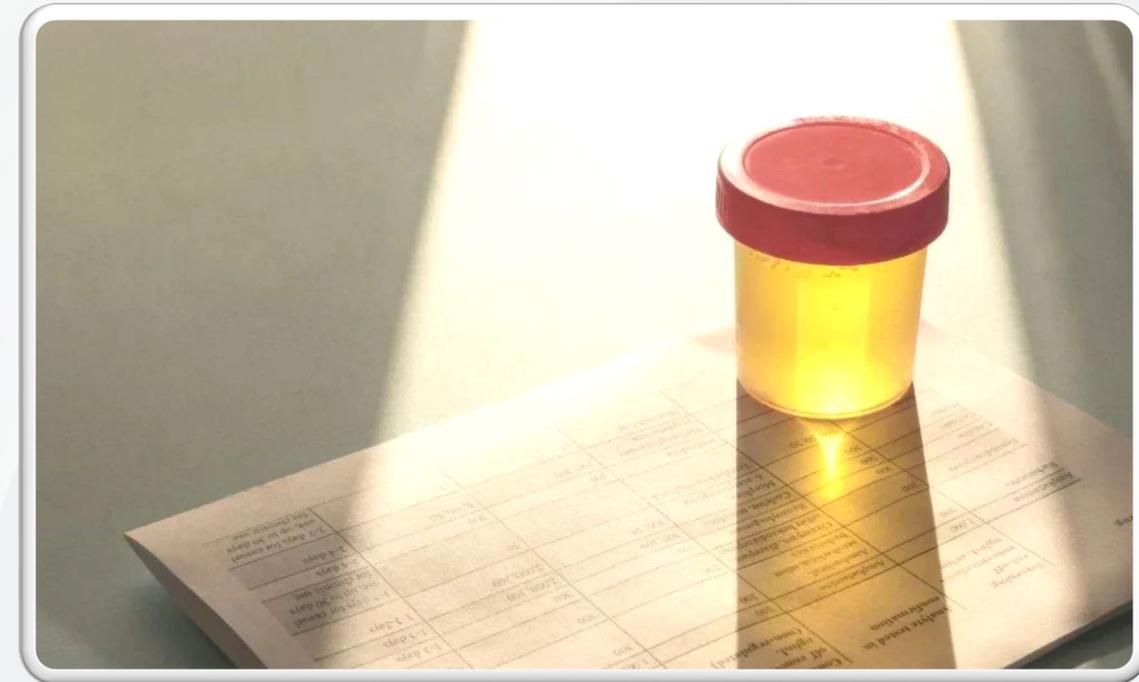
RAPID TESTING CANNOT STAND ALONE

Many rapid devices are “zero-tolerance” and do not rule out secondhand exposure. Lab-based confirmation testing must verify a non-negative.

- ❖ Some states require this by law

USE A MEDICAL REVIEW OFFICER

The MRO verification is an unbiased affirmation of the test result, reducing liability for the employer.



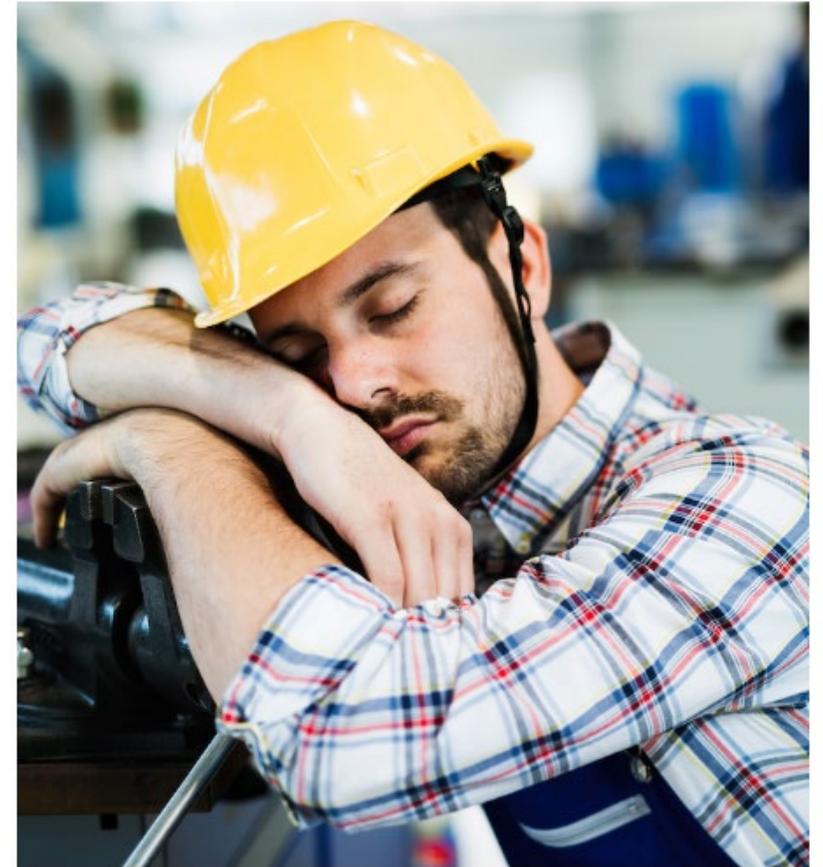


PRESENCE-IN-SYSTEM

Present and detectable in the system. Federal cutoff levels indicate ingestion. Does not indicate whether there is an active problem.

IMPAIRMENT

Actual, observable loss of normal function that negatively impacts performance or behavior in real-time.





UNDERSTANDING POLICY LANGUAGE

- ❖ Intoxication is a **specific type** of impairment.
- ❖ One can be impaired and not intoxicated, but intoxication *causes* impairment.
- ❖ KEY DIFFERENCE: Impairment has many causes; intoxication has substance use causes.

These are important LEGAL distinctions that could impact court cases.



KEEP IT SIMPLE

SIGNS & SYMPTOMS:

THE TRUE

GOLD STANDARD

FOR IMPAIRMENT

DETECTION

Did You Know? The U.S. Supreme Court upheld testing for cause in 1985.

Skinner v. Railway Labor Executives Association

Employers need “something more than a hunch” to make a determination.

IMPAIRMENT MEASURES:

- ❖ observable
- ❖ articulable
- ❖ ostensible
- ❖ documentable





The Ultimate Standard for Decisions
Pertaining to Cannabis at Work:
SAFETY OVER SUBSTANCE USE



THANKS!

Any questions?

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