



# S3 Conference

Screening ❖ Safety ❖ Strategy

*Hosted by DISA Global Solutions*

## ● Medical Marijuana & the MRO Process



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## TRENDS

Positivity rates increasing in states with recreational cannabis

Percentage of drug test panels including cannabis decreasing, particularly in recreational states



## Positivity Rates\*

Year	Percentage
2015	2.1%
2016	2.2%
2017	2.4%
2018	2.4%
2019	2.8%
2020	3.2%
2021	5.5%
2022	7.6%
2023	7.5%
2024	7.0%

## % tests including marijuana\*

Year	Percentage
2015	99.3%
2016	98.2%
2017	98.3%
2018	97.4%
2019	94.9%
2020	91.0%
2021	72.9%
2022	52.8%
2023	43.7%
2024	39.3%

\* Quest Diagnostics Drug Testing Index, general workforce, urine



## Positivity Rates\*

Year	Percentage
2015	2.3%
2016	2.4%
2017	2.3%
2018	2.6%
2019	3.0%
2020	3.1%
2021	5.0%
2022	7.7%
2023	8.8%
2024	9.1%

## % tests including marijuana\*

Year	Percentage
2015	99.5%
2016	99.3%
2017	98.5%
2018	97.6%
2019	95.9%
2020	91.2%
2021	80.1%
2022	69.9%
2023	50.6%
2024	40.8%

\* Quest Diagnostics Drug Testing Index, general workforce, urine



## Positivity Rates\*

Year	Percentage
2015	2.8%
2016	3.0%
2017	3.1%
2018	3.0%
2019	5.5%
2020	5.2%
2021	4.4%
2022	4.6%
2023	4.6%
2024	4.5%

## % tests including marijuana\*

Year	Percentage
2015	99.2%
2016	98.6%
2017	97.4%
2018	95.6%
2019	94.4%
2020	93.0%
2021	85.6%
2022	82.3%
2023	78.2%
2024	64.5%

\* Quest Diagnostics Drug Testing Index, general workforce, urine



## Positivity Rates\*

Year	Percentage
2015	2.3%
2016	2.4%
2017	2.7%
2018	3.1%
2019	4.1%
2020	4.5%
2021	4.7%
2022	4.6%
2023	4.8%
2024	5.5%

## % tests including marijuana\*

Year	Percentage
2015	99.6%
2016	99.5%
2017	98.4%
2018	96.6%
2019	94.5%
2020	91.5%
2021	83.1%
2022	76.2%
2023	73.4%
2024	58.5%

\* Quest Diagnostics Drug Testing Index, general workforce, urine



## Positivity Rates\*

Year	Percentage
2015	2.0%
2016	2.1%
2017	3.0%
2018	4.6%
2019	5.5%
2020	8.5%
2021	6.5%
2022	7.0%
2023	8.1%
2024	7.8%

## % tests including marijuana\*

Year	Percentage
2015	97.6%
2016	96.3%
2017	92.0%
2018	89.2%
2019	85.8%
2020	83.2%
2021	76.2%
2022	68.8%
2023	60.4%
2024	61.8%

\* Quest Diagnostics Drug Testing Index, general workforce, urine



## State medical and recreational marijuana laws vary widely

- ❖ Possession limits
- ❖ Accessibility
- ❖ Qualifying conditions for medical marijuana
- ❖ Employment protections
  - Possible state laws implicated:
    - State medical and recreational marijuana laws, workplace drug testing laws, laboratory licensing/regulations, disability/discrimination laws, lawful activities/off-duty use laws, case law/court decisions
- ❖ Some states prohibit or limit testing for cannabis



Current trend is increasing employment protections for both medical and recreational cannabis

- ❖ At least 22 states and D.C. provide some employment protections for medical marijuana
- ❖ At least 6 states and D.C. provide some employment protections for recreational marijuana
- ❖ Language and dress of protections vary

New focus on “impairment” and limits on testing

- ❖ Increased focus on recent use, narrowing window of detection
- ❖ Recent focus on testing of psychoactive drug (e.g., oral fluid, breath); use of non-psychoactive cannabis metabolites restricted in some states (e.g., California, Washington (pre-employment))



## Difficulties with state laws

- ❖ No objective standard for impairment
- ❖ Some states have exceptions for safety-sensitive employees
- ❖ No standard consensus for “safety-sensitive”
- ❖ Other standards: e.g., requirement of physical evaluation/use of Workplace Impairment Recognition Expert (N.J.), 24-hour time period (R.I.), testing for psychoactive drug/metabolite (CA, WA pre-employment))



## Most jurisdictions have exemptions

### ❖ Missouri

- “a position in which legal use of a lawful marijuana product affects in any manner a person’s ability to perform job-related employment responsibilities or the safety of others, or conflicts with a bona fide occupational qualification that is reasonably related to the person’s employment.” (Mo. Const. Art. XIV, § 1, section 7(15)).

### ❖ New Mexico

- “a position in which performance by a person under the influence of drugs or alcohol would constitute an immediate or direct threat of injury or death to that person or another.” (N.M. Stat. Ann. § 26-2B-3(Q))

### ❖ Oklahoma

- “any job that includes tasks or duties that the employer reasonably believes could affect the safety and health of the employee performing the task or others” and provides non-exhaustive list (Okla. Stat. tit. 63, § 427.8(K)).



Some states limit/prohibit testing or action based on marijuana –positive test results (not limited to medical) with exemptions

## ❖ California

- Limited exception for an employee in the building and construction trades (Cal. Gov. Code § 12954(a)(2))

## ❖ Nevada (pre-employment)

- Exception for firefighter, EMT, position that requires operation of motor vehicle and for which federal/state law requires testing, or a position “that in the determination of the employer, could adversely affect the safety of others ” (Nev. Rev. Stat. Ann. § 613.132)

## ❖ Washington (pre-employment)

- Contains numerous safety-sensitive exceptions, including a “safety sensitive position for which impairment while working presents a substantial risk of death” (Rev. Wash. Code § 49.44.240(3))
  - Such safety-sensitive position must be identified by employer prior to applicant’s application for employment



## Role of MRO in drug testing

- ❖ To make medical interpretation of laboratory reported positive results: *i.e.*, to determine whether a legitimate medical explanation exists for a positive result





## The MRO does not order the testing, determine type of testing, or determine applicability of state laws

- ❖ An MRO has no information regarding an employer's workforce or their obligations
- ❖ An MRO does not know:
  - Where an employee works or lives
  - The employee's position or job duties, including any safety issues or potential exemptions





## **Marijuana is still a Schedule I drug and is illegal under Federal Law (21 U.S.C. § 812)**

- ❖ State Recreational Marijuana, Medical Marijuana, and Hemp laws are NOT legitimate medical explanations for a positive THC result in federally-regulated drug testing



## For DOT, HHS, NRC, and USCG testing:

- ❖ Use of marijuana (medical or recreational) is not a legitimate medical explanation for a laboratory confirmed positive result for delta-9 THC
- ❖ The only FDA approved medications that are acceptable as a legitimate medical explanation to the MRO for delta-9 THC are Marinol (schedule III), Syndros (Schedule II), and Epidiolex (Schedule V)
  - An MRO can accept these medications as verifiable proof of a legitimate medical explanation to issue a negative result, with safety precautions



## For non-federally regulated MRO review of medical cannabis:

- ❖ University Services MRO verification process for delta-9 THC is handled the same as MRO review of a federally-regulated test result
  - In the absence of a legitimate medical explanation and a verifiable source, for a laboratory positive delta-9 THC result, the MRO reports a positive result for THC, with additional comments

# MRO Process & Verification: Non-Federally Regulated MRO Review- Medical Cannabis



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- ❖ If employee discloses to the MRO use of marijuana related to a medical cannabis card, and consents, the MRO reports a positive result with a statement identifying the source for the positive as: “Donor disclosed medical marijuana. Company Policy and State laws regarding marijuana may be applicable.”



## For non-federally regulated cannabis MRO review:

- ❖ Medical cannabis verification process is a complex and challenging process and is state-dependent
- ❖ Unlike FDA approved medications, cannabis is not federally regulated in the U.S. and does not have a Drug Identification Number
  - State issued “recommendation” for medical marijuana is not a “prescription”
  - State “dispensaries” are not DEA licensed/registered pharmacies
- ❖ This creates significant variability on how medical cannabis is defined, dosed, authorized, accessed and documented across jurisdictions

\*MROCCNews, Dec. 2025 issue: THC testing, key considerations for MROs supporting Non-DOT employers in legalized environments



- ❖ In the U.S., each state operates its own medical cannabis system, with significant differences
- ❖ State systems establish standards for Registry systems, documentation, product access, authorized qualifying conditions, monitoring, and requirements for healthcare provider oversight
  - At least 1 state allows self-certification (Oklahoma)
- ❖ Because of lack of uniformity and established standards, verifying medical cannabis use is best left up to the employer

\*MROCCNews, Dec. 2025 issue: THC testing, key considerations for MROs supporting Non-DOT employers in legalized environments



## For a verified marijuana-positive test result in non-federally regulated testing:

### ❖ AAMRO and MROCC position

- Declare a positive result
- If donor consents, make comment on report of claimed medical marijuana usage





## For non-federally regulated MRO review

- ❖ For recreational cannabis, the state legal status of cannabis has no bearing on MRO verification
  - A laboratory positive result for THC remains an MRO verified positive test result
- ❖ It is the employer's responsibility to choose the testing methodology and a policy framework that aligns with their safety needs around the use of a legalized substance

# MRO Process & Verification: Non-Federally Regulated MRO Review-Recreational Cannabis



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- ❖ If employee discloses to the MRO the recreational use of marijuana, the MRO reports a positive result with a statement: “Company Policy and State laws regarding marijuana use may be applicable.”



## For non-federally regulated MRO review of a marijuana-positive test result:

- ❖ Our MRO practice issues a positive result for marijuana, with appropriate comments, when the source is medical and/or recreational cannabis
  - This allows the employer policy to govern the response to the MRO positive THC results
- ❖ With legalization and human rights considerations influencing many workplaces, it is crucial for non-federally regulated employers to have policies when determining how cannabis results should be utilized



## **Cannabis use, whether prescribed, authorized, or used for recreational purposes, carries a significant safety concern for employees in safety-sensitive duties**

- ❖ Just because cannabis is legalized, this does not change the pharmacokinetics or pharmacodynamics of cannabis
- ❖ Evidence-based research and science has vast documentation on cannabis and the psychoactive metabolite of cannabis, Delta-9 THC and its effects on the brain
- ❖ These effects are the same whether it is legal or illegal. And the safety concerns remain the same across federal and non-federal jurisdictions



## Our stance as the MRO remains clear and consistent

- ❖ Reviewing the laboratory result with the donor
- ❖ Determine if there is a legitimate, **verifiable** medical explanation
- ❖ Report the result accordingly

Lastly, it is important to keep in mind that even when medical cannabis for medical purposes can be verified, cannabis remains a substance associated with acute and residual impairment

**MEDICAL VERIFICATION DOES NOT ELIMINATE SAFETY CONCERNS!**



# THANKS!

## Any questions?

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