

---

# Marijuana and the Workplace

A Guide for Employers

---



---

## About Drug Free America Foundation, Inc

---

Drug Free America Foundation, Inc. is a drug prevention and policy organization committed to developing, promoting and sustaining national and international policies and laws that will reduce illegal drug use and drug addiction. The Drug Free America Foundation, Inc. vision is nations that, through their leaders and their people, create an environment where citizens live lives free of illicit drugs. Drug Free America Foundation is a Non-Governmental Organization (NGO) in Special Consultative Status with the Economic and Social Council of the United Nations.



---

## About the National Drug-Free Workplace Alliance

---

The National Drug-Free Workplace Alliance (NDWA) is the workplace division of Drug Free America Foundation, Inc. (DFAF), an international drug prevention and policy organization dedicated to prevention of substance abuse around the world.

NDWA has a two-fold mission to directly assist small businesses in the state of Florida in establishing comprehensive drug free workplace programs and to support a national coalition of drug free workplace service providers.



## Overview

As the use of marijuana escalates across the country and legalization efforts gain traction, its effect touches every part of our society.

The workplace is not immune to these consequences. Employers must be diligent and proactive in understanding how the use of marijuana affects individuals, the overall influence to the business, and the level of financial liability that is acceptable. An evaluation should be based upon legitimate science, the safety-sensitive nature of your business, and risk analysis as opposed to perception and emotion.

As legalization efforts for both medical and recreational marijuana continue, the barrage of media we receive about pot normalizes the references in the minds of Americans, placing our society in a precarious situation. The more frequently a message is heard, the more accepting people are of the message, even if it is falsely portrayed and harmful. As adults grow to accept the use of marijuana, so too will our youth, whose brains are not fully formed and are highly vulnerable to the damage sustained from consuming pot.

## Marijuana Trends

### Marijuana Potency

The potency of marijuana today is very different from the pot even a few decades ago. Potency is determined by the amount of tetrahydrocannabinol (THC) in a pot sample. THC is the compound in pot that makes users high. The THC level in 1960s era marijuana was around 1 percent.<sup>1</sup> In a Colorado lab that tests potency, the pot averages 18.7 percent THC, with some samples in the upper 20-to-30 percent range.<sup>2</sup>

According to the Office of National Drug Control Strategy, in 2014 the average marijuana was at 6.1 percent THC content.<sup>3</sup> However, the THC-rich hash oil extracts average more than 50 percent THC with some samples exceeding 80 percent. The extremely high potency levels are cause for concern as the effects of high potency pot on the brain are not yet fully understood by researchers.<sup>4</sup>

### Edibles

Marijuana is finding its way into more than just brownies these days. Fueled by the wave of states that have approved legalized marijuana, new industries and products have emerged that cater to pot consumers.

Using potent marijuana extracts, a wide variety of everyday foods and products are already available including snacks, sweets, candies, breakfast foods, pizza, ice cream, soda, and much, much, more. This makes it easy for people to consume pot, anywhere and at any time. Food items are available at marijuana dispensaries and retail shops in states that allow them. These products have likely already found their way into workplaces across the country.



## Vaporizers

One of the most prevalent marijuana paraphernalia trends is personal vaporizers or vape pens. Vape pens are akin to the e-cig and work similarly. Sleek and tech-savvy, the rechargeable devices can be plugged into a USB port or wall adapter. They allow for a manner of consuming highly concentrated, extremely potent THC resin or extracts of marijuana called dabs, wax, hash oil or butter, butane hash oil, etc Dabs are to pot what Everclear is to alcohol.

When used with a vaporizer, this method, called “dabbing,” involves placing a small amount of the dabs, wax or hash oil into the vape pen which highly heats and vaporizes the substance into the inhalable vapor. People, including teens, buy the very strong hash oils to fill ordinary e-cigs making the use of cannabis in those devices virtually indistinguishable from the liquid nicotine. E-cigs and vape pens are sold everywhere and vials of hash oil are easily obtainable on the black market.

With the trend of easy-to-obtain and discreet personal devices like e-cigs and vape pens making the perception of harm from traditional smoking a thing of the past, the number of users will likely increase dramatically in the coming years.

---

## Marijuana Positivity Increases Dramatically over Last Three Years; Increases in Colorado and Washington Double the National Average

Marijuana positivity continued its upward climb in both the federally-mandated, safety-sensitive and general U.S. workforces. In oral fluid testing, which detects recent drug use, marijuana positivity increased nearly 75 percent, from 5.1 percent in 2013 to 8.9 percent in 2016 in the general U.S. workforce. Marijuana positivity also increased in both urine testing (2.4% in 2015 versus 2.5% in 2016) and hair testing (7.0% in 2015 versus 7.3% in 2016) in the same population.

Among the federally-mandated, safety-sensitive workforce, which only utilizes urine testing, marijuana positivity increased nearly ten percent (0.71% in 2015 versus 0.78% in 2016), the largest year-over-year increase in five years.

In Colorado and Washington, the first states in which recreational marijuana use was legalized, the overall urine positivity rate for marijuana outpaced the national average in 2016 for the first time since the statutes took effect. The increase was more pronounced in Colorado, which increased 11 percent (2.61% in 2015 versus 2.90% in 2016), than in Washington, which increased nine percent (2.82% in 2015 versus 3.08% in 2016). The national positivity rate for marijuana in the general U.S. workforce in urine testing increased four percent (2.4% in 2015 compared to 2.5% in 2016).

*Excerpt from the Quest Diagnostics – Drug Testing Index (TM) - May 16, 2017*

---

## What Research Says About Marijuana

For more than 30 years, data has been collected and research has been conducted on the effects of pot on the human body and its impact on the workplace. It is important to employers that adverse lifestyle choices of workers do not overlap into the work environment affecting productivity, security, and safety to name a few.

### Marijuana Use

- Marijuana was the most commonly used illicit drug in 2015. There were 22.2 million past month users in 2015 (8.3 percent of those aged 12 or older), which was similar to the number and rate in 2014, but higher than the rates in 2002 to 2013 (ranging from 6.2 to 7.5 percent).<sup>5</sup>
- Of past month marijuana users aged 18 or older in 2015, 8.9 percent were employed full-time, 10.6 percent were employed part-time and 14.7 percent were unemployed.<sup>6</sup>
- 20 percent of young workers admit to using marijuana on the job.<sup>7</sup>
- Marijuana users have 85 percent more injuries at work, a 78 percent increase in absenteeism, 64 percent more disciplinary problems, and 55 percent more industrial accidents compared to non-users in the study.<sup>8</sup>





## Marijuana and Driving

While there are many safety-sensitive functions performed by employees, driving is one of the most common. With millions of people on the road daily, vehicle crashes and their causes have been statistically well-documented for decades by law enforcement, the National Transportation and Highway Safety Board and other agencies.

Employees that use marijuana and other drugs negatively impact the bottom line for employers due to increased workplace accidents, injuries, and other effects, increasing the cost of doing business. The safety of all employees, vendors, customers, other drivers, pedestrians, or generally anyone encountering an employee while driving under the influence of pot could be in danger. Injuries from accidents will directly affect the cost of auto insurance, as well as workers' compensation insurance and other liability coverage.



### Here are some statistics:

One study found that marijuana users had 85% more injuries at work than non-users.<sup>8</sup> Driving under the influence of marijuana is dangerous and adversely affects concentration, coordination, and perception, all important driving skills.<sup>9</sup> A recent analysis of nine epidemiological studies conducted by researchers at Columbia University's College of Physicians and Department of Public Health concluded that drivers that test positive for marijuana are more than twice as likely as other drivers to be involved in a collision.<sup>10</sup> The same study also found that these same drivers were three to seven times more likely to have caused the crash.

---

#### Research has further supported this dangerous effect following legalization of medical marijuana:

- In 2009, Colorado marijuana-related traffic deaths involving operators testing positive for marijuana represented 10 percent of all traffic fatalities. By 2015, that number doubled to 21 percent.<sup>11</sup>
  - There was an 87 percent increase in drivers testing positive for marijuana who were involved in fatal crashes in Colorado from 2013 to 2015.<sup>12</sup>
- 

Employers of drivers should be aware of the high cost of accidents. According to a National Highway Traffic Safety Administration report,<sup>13</sup> the total economic cost for a vehicle fatality is \$1,398,916. That includes property damage, medical, insurance, productivity, among other considerations.

Even now, companies across the country who employ drivers have a difficult time finding employment candidates who can pass the required drug tests and are ready to work.<sup>14</sup> It's not hard to figure out that people who can't pass a drug test seek jobs with companies that don't drug test.

## Airline Pilot Study

Critical monitoring, decision making and executive functioning are essential in many jobs, especially where the safety of the public is at stake. This is crucial in the transportation industry. In 1991, a National Institutes of Health study was conducted on marijuana consumption and flight simulator performance testing of airline pilots. Impairment was observed at the .25, 4, 8 and 24 hour marks. Most pilots were not aware of their impairment at 24 hours. This was a concerning finding.<sup>15</sup> The conclusions were reinforced by a 2004 study by the Australian government with this addition, "...the modern dose of cannabis is much more potent than in the past, when the majority of the research was conducted. As such, the reported adverse health effects may well be conservative."<sup>16</sup>

Considering this data in the context of the general public, the extent of marijuana legalization in our society today, and approximately 264 million passenger vehicles on the road, the results of that study take on a new and frightening significance.

## Postal Worker Study

This study followed 3,600 postal workers in the late 1980s in an effort to evaluate the value of drug testing. The finding determined that a higher rate of employees that tested positive in pre-employment drug testing (13.5%) were fired after six months than those who had not (9.5%). The postal service further determined that by screening applicants at hire, costing \$1.8 million per year, the organization could save \$3.1 million per year in costs from absenteeism and hiring and as much as \$17 million over 3 years.<sup>8</sup>



## Hiring and Retention will Suffer

Even in states that do not have any form of legalized marijuana, employers are very concerned about their decreased ability to hire workers that are drug-free. This is especially true in industries such as construction and trades. In 2013, workplace drug tests positive for marijuana increased sharply in Colorado and Washington states (20% and 23%, respectively) as compared to the nationwide positivity rate of 5% according to Quest Diagnostics.<sup>17</sup> They also reported that in 2014, the nationwide average in workplace drug tests that were positive for marijuana increased 14%.<sup>18</sup> Generally, this shows more acceptance of the drug across the country which is bad news for employers everywhere.

## Bottom Lines will be Negatively Affected

Supported by numerous studies, researchers have found that employees, who use marijuana and other drugs, negatively impact the bottom line for employers due to increased absenteeism, more workplace accidents and injuries and higher health-care costs. This, combined with decreased productivity, create the perfect storm of fiscal fiasco. Increased pot usage and the multitude of conflicting marijuana laws across the country have caused an increase in litigation as marijuana-using employees sue employers for the right to use their drug of choice. While the courts have overwhelmingly ruled in favor of employers, it is at a great cost. Small business, the backbone of our American economy, suffers the most.

# Laws, Insurance and Liability

## Marijuana Laws and the Courts

The tangled web of conflicting and diverse laws and statutes being drawn across the country varies from state to state, from jurisdiction to jurisdiction, making this issue very confusing for all concerned. No two states' marijuana laws are identical, further complicating the issue. So far, most states have upheld employers' rights if they have a workplace policy that prohibits the possession of pot or presence of marijuana metabolites in their employees' systems while at work.

The fact that marijuana remains federally illegal has been favorable for employers enforcing workplace rules and for the judges who may rule on related court cases. However, the topic of marijuana-related drug law enforcement has been mixed in its approach over the past few Presidential administrations. In a letter to the governor and attorney general of Washington State, U.S. Attorney General Jeff Sessions stated that the Department of Justice "remains committed to enforcing the Controlled Substances Act."<sup>19</sup> Businesses that work on federal contracts must still comply with drug-free workplace requirements and perform required drug testing. U.S. Department of Transportation (DOT) covered employees and employers must also continue to follow the rules established by the DOT.<sup>20 21 22</sup>

However, the employer-friendly attitude of our judicial system may soon be lost. Along with the wave of legalization efforts across the country, comes the upswing of marijuana-related civil rights litigation. In 2014, a New Mexico appeals court ruled<sup>23</sup> that an employer must pay for an injured employee's medical marijuana through workers' compensation insurance, calling it "reasonable and just." Also that year, a Michigan appellate court ruled that workers can receive unemployment benefits if they are fired for using pot under the state's medical marijuana statute.<sup>24</sup>

A key court case decided in the Colorado Supreme Court (CSC) in 2015 was *Coats v. Dish Network, LLC*.<sup>25</sup> At issue was whether an employer acted lawfully in terminating an employee who tested positive for marijuana, despite the fact that the disabled employee had a doctor's recommendation for medical marijuana. Two earlier courts ruled that the employer had acted in accordance with the law. The CSC ruling upholding the previous courts' decisions was nationally significant and may strengthen employers' rights in this matter.

In 2016, the U.S. District Court in New Mexico ruled in *Garcia v. Tractor Supply Company*,<sup>26</sup> that the employer acted within its rights to terminate a new hire that tested positive for marijuana, despite the fact that the employee pre-disclosed that he had HIV/AIDS and was using marijuana recommended to him by a doctor under that state's medical marijuana program.

However, a 2017 case in the Rhode Island Superior court ruled on *Callaghan v. Darlington Fabrics, et al*,<sup>27</sup> in favor of the plaintiff. In the hiring process, Ms. Callaghan acknowledged the company's drug-free workplace policy and informed the employer that she had Crohn's Disease, had a Rhode Island Medical Marijuana Card and was consuming marijuana at home to help with appetite indicating that she would not take the marijuana at the workplace. The judge stated that the employer had discriminated against her because of her disability when she was declined employment after learning that she had the medical condition.

Also in 2017, the Massachusetts Supreme Judicial Court overturned a lower court ruling in *Barbuto v. Advantage Sales and Marketing, LLC*,<sup>28</sup> stating that the employer could not refuse to accommodate an employee's medical condition and legal use of medical marijuana for its treatment. In this case, Ms. Barbuto was a new hire that also pre-disclosed her medical condition and use of medical marijuana under that state's medical marijuana program.

These are just a few of the cases being litigated across the country. The only certainty is that there will be many, many years, even decades, of turmoil and legal proceedings that will challenge every aspect of marijuana usage in society. It will affect the way employers operate and as a result will increase the costs of doing business.

---

## Workplace Smoking, eCigarette, and Vaping Policies

---

In an effort to further discourage smoking behavior which could include the consumption of marijuana, employers are encouraged to revise their smoke-free or tobacco-free policies to include the use of electronic nicotine delivery systems – known as e-cigarettes, e-cigars, e-hookahs and e-pipes, among other names.



E-cigarettes and similar devices are not approved by the Food and Drug Administration and despite the fact that no firm conclusions can be drawn on the safety of e-cigarettes there is an increasing body of evidence indicating harm.



## Insurance Liability and Risk

Identifying and defining liability related to marijuana use is perhaps one of the most evolving areas of risk management and insurance practices. From the viewpoint of an insurer, the conflicting laws are particularly troublesome for insuring a business against unexpected loss with no clear best practice. Here are some of the issues employers may face:

### Workers' Compensation Insurance

Workers' Compensation Insurance protects the employer from lost productivity, employee medical expenses and missed wages. The illegality of marijuana at the federal level and its Schedule 1 classification under the Controlled Substances Act are still the primary concerns related to insurance coverage of any type. However, when considering the legal status of marijuana at the state level, the rules, laws and statutes vary so much that it is difficult to know whether a workers' compensation claim may be covered. This is of particular concern to multi-state or national employers.

Despite the aforementioned New Mexico court case that required an employer to pay for an injured employee's medical marijuana, the opposite result was rendered in a Maine Workers Compensation Act case. In this instance, it was ruled that by covering marijuana and related expenses, the employer would be complicit in violation of federal law, possibly subject to prosecution. The Maine agency further determined that the state's own medical marijuana statute stated that the employer was not required to pay for costs associated with medical marijuana. Arizona, Montana, and Vermont have taken a similar position regarding medical marijuana and workers' compensation. Worker's compensation payers look to the evidence-based treatment guidelines developed by organizations such as the American College of Occupational and Environmental Medicine. Since medical marijuana is not included in those standards, it is not considered an effective treatment and therefore not coverable.

### Life Insurance

There are life insurance companies that will cover individuals that are marijuana users, however, pricing and coverage may hinge upon the frequency at which they consume the pot. As reported by PBS Newshour, a survey conducted at the Association of Home Office Underwriters annual conference revealed, with no surprise, that there is a great diversity in practice. The definition of the term "non-smoker" seems to be the nexus. Of the twenty-nine percent of life insurance companies that allow marijuana consumption with coverage, the policy owners are classified as "non-smokers." Other companies implemented tiers of usage that related to policy pricing. Employers that pay for employee's life insurance coverage may also see an increase in costs as marijuana use increases.

### Health Insurance

Because marijuana remains federally illegal, health insurance companies don't address marijuana use in setting rates according to an insurance industry association, America's Health Insurance Plans. It may only be a matter of time before the increase of marijuana use translates into higher health insurance claims due to more frequent use.

### Other Business Insurance

Employer costs for other types of insurance may be affected by marijuana-related employee accidents, particularly where equipment or property is damaged, and for loss of productivity and income.



# A Safe, Healthy and Productive Workplace

## Duty to Protect All Employees

Employers have a duty to protect all of their employees from harm and must comply with regulations from the Occupational Safety and Health Administration (OSHA)<sup>33</sup> and the Equal Employment Opportunity Commission (EEOC).<sup>34</sup> In its general duty clause,<sup>35</sup> OSHA tells employers they must provide a work environment that “is free from recognizable hazards that are causing or likely to cause death or serious harm to employees.” Because of marijuana’s impact on the brain and behavior, it may be construed that an employer is not fulfilling their responsibility if they hire or retain an employee who is a marijuana user, be it for medical or other reasons.

Businesses with a comprehensive drug-free workplace program can go a long way toward mitigating the adverse effects of marijuana or other substance use by distributing a written policy that outlines the specifics of what is prohibited and the consequences of drug-use, educating employees on the impacts, and training supervisors to identify the signs and symptoms of substance use.

---

A work environment that is free from marijuana and other substance use benefits from employees who are more:

- Alert and performing at their best
  - Confident that their safety is not at risk
  - Productive and contributing to the bottom line
- 

Employers that promote a drug-free work environment may benefit from a significant return on their investment.

*Comprehensive drug-free workplace programs, including written policies, drug-testing, online employee and supervisor training, and much more are available through the National Drug-Free Workplace Alliance at a low cost.*

*Please go to [www.ndwa.org](http://www.ndwa.org) for more information.*

## Americans with Disabilities Act (ADA)

The U.S. Department of Justice has been quite clear in its interpretation of the ADA.<sup>37</sup> Adopted in 1990 and amended in 2008, the ADA provides that a person that is currently using illicit drugs does not qualify as an individual with a disability and is not protected under the Act. The ADA also does not restrict the use of employer drug testing.

From the ADA, Section 12210 Illegal Use of Drugs, (d) “Illegal Use of drugs” defined, 1:<sup>38</sup>

*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.*

From the ADA, Section 12210 Illegal Use of Drugs, (d) “Illegal Use of drugs” defined, 2 “drugs”:<sup>26</sup>

*The term “drug” means a controlled substance, as defined in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812).*

It is clear that crude marijuana which has been legalized as a “medicine” by various states is included in the above prohibition because it 1) is a Schedule 1 drug under the Controlled Substances Act; and 2) cannot be legally prescribed by a physician. Exceptions are FDA approved prescription medications such as Marinol. These cannabis-based medications are treated the same as other FDA-approved drugs.

As with all matters related to marijuana, it is probable that there will be future legal challenges to the ADA.





## Occupational Health and Safety Administration (OSHA)

In 2016, OSHA issued new regulations (OSHA 29 CFR 1904)<sup>39</sup> that prohibited employers from retaliating against employees reporting workplace injuries and illnesses. In its *Frequently Asked Questions* web page concerning this final rule,<sup>40</sup> OSHA states the following:

*The rule does not prohibit drug testing of employees. It only prohibits employers from using drug testing, or the threat of drug testing, as a form of retaliation against employees who report injuries or illnesses. If an employer conducts drug testing to comply with the requirements of a state or federal law or regulation, the employer's motive would not be retaliatory and this rule would not prohibit such testing.*

OSHA also clarified that this rule does not apply to employers complying with federal drug testing program requirements, such as with the U.S. Department of Transportation and its various administrations, or with state workers' compensation statutes.

## A Smart Approach for Employers

### Employment Practices

An employer's approach is very important in the process of implementing workplace practices that encourage safe, healthy lifestyles, and discourage behaviors that are counter-productive, both from a personal and a business standpoint.

In this tumultuous time of conflicting laws, confusion, and change, employers are encouraged to "stay the course" where a drug-free workplace is concerned. Employment law specialists encourage employers to remain consistent and fair in the application of workplace rules and procedures and to regularly review their program in relation to applicable laws, regulations and statutes that may have changed.

---

#### Key takeaways for employers:

1. **Get a comprehensive drug-free workplace program now, or if you have one, review your existing policy and program.** Now is the time to sit down with your employment advisors and assess where you are with regard to a solid written policy and program. Involve your safety/health committee if you have one. Make changes as necessary and inform your personnel.

The National Drug-Free Workplace Alliance can assist you with your Department of Transportation (DOT) or non-DOT policy and program needs. Visit the NDWA website at [www.ndwa.org](http://www.ndwa.org) for more information.

#### Remember to:

- a. Employ all program features for maximum effectiveness. These include drug-testing, training, and more.
  - b. Ensure you are in compliance under your state laws.
  - c. Include a prohibition statement that addresses all substances that are illicit under the Controlled Substances Act (CSA).
  - d. Consequences matter! Include a clear statement about the consequence should the employee violate the policy. Consider offering employees the opportunity to seek rehabilitation as a first means of addressing drug test violations. Employers that make this a reality receive a positive return on their investment in that employee and save hiring and other costs.
2. **Consider investing in an Employee Assistance Programs (EAP).** An EAP provides the opportunity for employees to speak to a counselor to address personal issues that are affecting them. Issues may include substance use, divorce, child issues, and much more. An EAP is a valuable benefit that employers purchase for their employees and has been shown to provide a positive return on investment of 3:1 to 10:1.<sup>41</sup>
  3. **Consider employing additional methods of drug-testing.** In addition to pre-employment, reasonable suspicion and post-accident types of testing, an employer may implement random testing as an added incentive to avoid substance use in the workplace. Testing programs may be purchased through Third-Party Administrators (TPA), occupational clinics, or directly through laboratories. Costs and add-on fees vary greatly, so employers should shop around to get the best value for their needs. The National Drug-Free Workplace Alliance can assist you with low-cost, quality drug-testing services. Please visit our NDWA website at [www.ndwa.org](http://www.ndwa.org) or call us at (727) 828-0211, extension 109, for more information.

4. Employee awareness education is paramount to a comprehensive program. Awareness leads to understanding. The drug scene is constantly changing and this may be the only source of accurate information. The National Drug-Free Workplace Alliance has excellent online training courses for Department of Transportation (DOT) and non-DOT employees available at nominal prices. Please visit our NDWA website at [www.ndwa.org](http://www.ndwa.org) for more information.

5. Supervisors need the tools to effectively do their job. If you put supervisors in the position to be your front-line managers, they become the eyes and ears of the company. Empowering them to be confident leaders through training, especially in the area of a drug-free workplace include: identifying the signs and symptoms of substance use, how to determine the need for a reasonable suspicion drug test, what to do in the case of a post-accident situation, and much more. The National Drug-Free Workplace Alliance has excellent online training courses for Department of Transportation (DOT) and non-DOT supervisors available at nominal prices. Please visit our NDWA website at [www.ndwa.org](http://www.ndwa.org) for more information.

6. Prevention in the workplace is a no-brainer.

- a. Include a focus on parent substance abuse education in the workplace. When problems with substance abuse (or other issues) occur in the home it often creeps into the workplace. Providing parents with resources to deal with the issues can make a huge difference. An Employee Assistance Program is a great resource. The National Drug-Free Workplace Alliance also offers a parent awareness module, "Communication, the Key to Keeping Your Kids Drug Free," included free with every online training course purchased.
- b. Youth workers that encounter a positive, drug-free workplace are more likely to avoid substance use themselves.
- c. Implement your drug-free workplace program as a feature of an overall safe and healthy workplace initiative. This could include a health and safety committee, a healthy workplace fair, benefits for smoking cessation and exercise programs, promoting a drug-free workplace, just to name a few.
- d. Make it easy to get help. Provide resources and means for employees to seek treatment on their own, before it becomes a problem.
- e. Offer comprehensive insurance coverage and treatment resources.
- f. Join your local community prevention coalition!
- g. Recovery works! Advocate for prevention and treatment in your community.

---

## Set the Tone, Change the Culture!

Create an environment of caring. Employers have a tremendous capacity to influence their employees and their behavior, both at work and in their personal time. The small investment toward developing your safe and healthy work environment, with a drug-free workplace program as the cornerstone, can foster increased morale and loyalty that will translate into increased productivity and improved business operations.

Through the National Drug-Free Workplace Alliance and our many workplace partners and collaborators, Drug Free America Foundation is your partner in creating and developing your outstanding program.

For more information, please contact Drug Free America Foundation's Drug-Free Workplace Program Manager at (727) 828-0211 Ext. 109 or email us at [info@ndwa.org](mailto:info@ndwa.org). Our website is located at [www.ndwa.org](http://www.ndwa.org).





# Endnotes

- 1 Marijuana Potency Monitoring Project, report No. 83. University of Mississippi, 2003
- 2 "Colorado Marijuana Study Finds Legal Weed Contains Potent THC Levels." NBC News, NBC News, 23 Mar. 2015, 5:04 AM. Quote from Andy LaFrate, president of Charas Scientific on the rising THC levels in marijuana.
- 3 "National Drug Control Strategy 2015 Data Supplement." National Archives and Records Administration, National Archives and Records Administration, 2015, [obamawhitehouse.archives.gov/ondcp/policy-andresearch/ndcs](http://obamawhitehouse.archives.gov/ondcp/policy-andresearch/ndcs).
- 4 NIDA. "Marijuana." National Institute on Drug Abuse, 28 Apr. 2017, <https://www.drugabuse.gov/publications/research-reports/marijuana>. Accessed 24 Aug. 2017.
- 5 Sarra L. Hedden, Joel Kennet, Rachel Lipari, Grace Medley, Peter Tice, Elizabeth A. P. Copello, Larry A. Kroutil. Key Substance Use and Mental Health Indicators in the United States: Results from the 2015 National Survey on Drug Use and Health, Sept. 2016, [www.samhsa.gov/data/sites/default/files/NSDUH-FFR1-2015/NSDUH-FFR1-2015/NSDUH-FFR1-2015.pdf](http://www.samhsa.gov/data/sites/default/files/NSDUH-FFR1-2015/NSDUH-FFR1-2015/NSDUH-FFR1-2015.pdf).
- 6 Sarra L. Hedden, Joel Kennet, Rachel Lipari, Grace Medley, Peter Tice, Elizabeth A. P. Copello, Larry A. Kroutil. Key Substance Use and Mental Health Indicators in the United States: Results from the 2015 National Survey on Drug Use and Health, Sept. 2016, [www.samhsa.gov/data/sites/default/files/NSDUH-FFR1-2015/NSDUH-FFR1-2015/NSDUH-FFR1-2015.pdf](http://www.samhsa.gov/data/sites/default/files/NSDUH-FFR1-2015/NSDUH-FFR1-2015/NSDUH-FFR1-2015.pdf).
- 7 Working Partners: Confronting Substance Abuse in Small Business: National Conference Proceedings Report. United States: publisher not identified, 1992. Print.
- 8 Zwierling, Craig. "The Efficacy of Preemployment Drug Screening for Marijuana and Cocaine in Predicting Employment Outcome." JAMA: The Journal of the American Medical Association, vol. 264, no. 20, 1990, p. 2639., doi:10.1001/jama.1990.03450200047029.
- 9 NIDA. "Marijuana." National Institute on Drug Abuse, 30 Aug. 2017, <https://www.drugabuse.gov/publications/research-reports/marijuana>. Accessed 31 Aug. 2017.
- 10 Li, Mu-Chen, et al. "Marijuana Use and Motor Vehicle Crashes." Epidemiologic Reviews, Oxford University Press, Jan. 2012, [www.ncbi.nlm.nih.gov/pmc/articles/PMC3276316/](http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3276316/).
- 11 The Legalization of Marijuana in Colorado: The Impact, Volume 4. Rocky Mountain High Intensity Drug Trafficking Area, 2016, The Legalization of Marijuana in Colorado: The Impact, Volume 4, [www.rmhidta.org/html/2016%20FINAL%20Legalization%20of%20Marijuana%20in%20Colorado%20The%20Impact.pdf](http://www.rmhidta.org/html/2016%20FINAL%20Legalization%20of%20Marijuana%20in%20Colorado%20The%20Impact.pdf).
- 12 Marijuana Legalization in Colorado: Early Findings: A Report Pursuant to Senate Bill 13-283. Colorado Department of Public Safety, 2016, Marijuana Legalization in Colorado: Early Findings: A Report Pursuant to Senate Bill 13-283, [cdpsdocs.state.co.us/ors/docs/reports/2016-SB13-283-Rpt.pdf](http://cdpsdocs.state.co.us/ors/docs/reports/2016-SB13-283-Rpt.pdf).
- 13 Blincoe, L. J., et al. The Economic and Societal Impact Of Motor Vehicle Crashes, 2010 (Revised). U.S. Department of Transportation, National Highway Traffic Safety Administration, 2015, The Economic and Societal Impact Of Motor Vehicle Crashes, 2010 (Revised), [crashstats.nhtsa.dot.gov/Api/Public/ViewPublication/812013](http://crashstats.nhtsa.dot.gov/Api/Public/ViewPublication/812013).
- 14 Calmes, Jackie. "Hiring Hurdle: Finding Workers Who Can Pass a Drug Test." The New York Times, The New York Times, 17 May 2016, [www.nytimes.com/2016/05/18/business/hiring-hurdle-finding-workers-who-can-pass-a-drug-test.html?mcubz=1](http://www.nytimes.com/2016/05/18/business/hiring-hurdle-finding-workers-who-can-pass-a-drug-test.html?mcubz=1).
- 15 Leirer, V O, et al. "Marijuana Carry-over Effects on Aircraft Pilot Performance." Aviation, Space and Environmental Medicine, Mar. 1991, [www.ncbi.nlm.nih.gov/pubmed/1849400](http://www.ncbi.nlm.nih.gov/pubmed/1849400).
- 16 Newman, D G. Cannabis and Its Effects on Pilot Performance and Flight Safety: A Review. Australian Government, Australian Transport Safety Bureau, 2004, Cannabis and Its Effects on Pilot Performance and Flight Safety: A Review, [dviaviation.com/files/45944181.pdf](http://dviaviation.com/files/45944181.pdf).
- 17 <https://blog.employersolutions.com/wp-content/uploads/2015/05/Quest-Diagnostics-Drug-Testing-Index-2014-release.pdf>
- 18 "Illicit Drug Positivity Rate Increases Sharply in Workplace Testing, Finds Quest Diagnostics Drug Testing Index™ Analysis." Quest Diagnostics, Quest Diagnostics, 9 June 2015, [newsroom.questdiagnostics.com/2015-06-09-Illicit-Drug-Positivity-Rate-Increases-Sharply-in-Workplace-Testing-Finds-Quest-Diagnostics-Drug-Testing-Index-Analysis](http://newsroom.questdiagnostics.com/2015-06-09-Illicit-Drug-Positivity-Rate-Increases-Sharply-in-Workplace-Testing-Finds-Quest-Diagnostics-Drug-Testing-Index-Analysis).
- 19 Sessions, Jeff. "Letter from Sessions." Received by The Honorable Jay Inslee Governor State of Washington and The Honorable Robert Ferguson Attorney General, Huffington Post, Huffington Post, 24 July 2017, [s3.amazonaws.com/big.assets.huffingtonpost.com/LtrfromSessions.pdf](http://s3.amazonaws.com/big.assets.huffingtonpost.com/LtrfromSessions.pdf).
- 20 "Office of Drug & Alcohol Policy & Compliance." US Department of Transportation, United States Department of Transportation, 1 Mar. 2012, [www.transportation.gov/odapc](http://www.transportation.gov/odapc).
- 21 "DOT 'Recreational Marijuana' Notice." US Department of Transportation, United States Department of Transportation, 30 Nov. 2012, [www.transportation.gov/odapc/dot-recreational-marijuana-notice](http://www.transportation.gov/odapc/dot-recreational-marijuana-notice).
- 22 "DOT 'Medical Marijuana' Notice." US Department of Transportation, United States Department of Transportation, 12 June 2012, [www.transportation.gov/odapc/medical-marijuana-notice](http://www.transportation.gov/odapc/medical-marijuana-notice).
- 23 "FindLaw's Court of Appeals of New Mexico Case and Opinions." Findlaw, caselaw.findlaw.com/nm-court-of-appeals/1668367.html.
- 24 AlHajal, Khalil. "Fired Medical Marijuana Users Eligible for Unemployment Benefits after Court Ruling." MLive.com, MLive Media Group, 5 Nov. 2015, [www.mlive.com/news/detroit/index.ssf/2015/11/fired\\_medical\\_marijuana\\_users.html](http://www.mlive.com/news/detroit/index.ssf/2015/11/fired_medical_marijuana_users.html).
- 25 [https://www.courts.state.co.us/userfiles/file/Court\\_Probation/Supreme\\_Court/Opinions/2013/13SC394.pdf](https://www.courts.state.co.us/userfiles/file/Court_Probation/Supreme_Court/Opinions/2013/13SC394.pdf)
- 26 [https://www.americanbar.org/content/dam/aba/publications/litigation\\_news/garcia-tractorsupply.authcheckdam.pdf](https://www.americanbar.org/content/dam/aba/publications/litigation_news/garcia-tractorsupply.authcheckdam.pdf)
- 27 <https://www.courts.ri.gov/Courts/SuperiorCourt/SuperiorDecisions/14-5680.pdf>
- 28 <http://www.massmunilaw.org/wp-content/uploads/2017/07/Cristina-Barbuto-v-Advantage-Sales-and-Marketing-LLC.pdf>
- 29 STATE OF MAINE WORKERS' COMPENSATION BOARD APPELLATE DIVISION . NOLL v. LEPAGE BAKERIES, INC. 23 Aug. 2016, [www.maine.gov/wcb/Departments/appellate/2016decisions/16-25\\_Noll\\_v.\\_Lepage\\_Bakeries\\_8-23-16\\_corr\\_8-26.pdf](http://www.maine.gov/wcb/Departments/appellate/2016decisions/16-25_Noll_v._Lepage_Bakeries_8-23-16_corr_8-26.pdf).
- 30 "Arizona Passes Work Comp Legislation for Medical Marijuana." MyMatrixx, MyMatrixx, 3 May 2017, [www.mymatrixx.com/arizona-passes-work-comp-legislation-for-medical-marijuana/](http://www.mymatrixx.com/arizona-passes-work-comp-legislation-for-medical-marijuana/).
- 31 "Clinical Practice and Guidance Center." ACOEM Practice Guidelines, [www.acoem.org/PracticeGuidelines.aspx](http://www.acoem.org/PracticeGuidelines.aspx).
- 32 Andrews, Michelle. "Here's How Smoking Marijuana Might Affect Your Life Insurance." PBS, Public Broadcasting Service, 10 June 2016, [www.pbs.org/newshour/rundown/heres-how-smoking-marijuana-might-affect-your-life-insurance/](http://www.pbs.org/newshour/rundown/heres-how-smoking-marijuana-might-affect-your-life-insurance/).
- 33 "UNITED STATES DEPARTMENT OF LABOR." Occupational Safety and Health Administration, [www.osha.gov/](http://www.osha.gov/).
- 34 "EEOC Home Page." EEOC Home Page, [www.eeoc.gov/](http://www.eeoc.gov/).
- 35 "Occupational Safety and Health Act of 1970, Section 5 Duties." Occupational Safety and Health Administration, United States Department of Labor, [www.osha.gov/pls/oshaweb/owadisp.show\\_document?p\\_table=OSHACT&p\\_id=3359](http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=OSHACT&p_id=3359).
- 36 Pisinger, Charlotta. A Systematic Review of Health Effects of Electronic Cigarettes. World Health Organization, 2015, A Systematic Review of Health Effects of Electronic Cigarettes, [www.who.int/tobacco/industry/product\\_regulation/BackgroundPapersENDS3\\_4November-.pdf](http://www.who.int/tobacco/industry/product_regulation/BackgroundPapersENDS3_4November-.pdf).
- 37 "AMERICANS WITH DISABILITIES ACT OF 1990, AS AMENDED." Americans with Disabilities Act of 1990, AS AMENDED with ADA Amendments Act of 2008, 2009, <https://www.ada.gov/pubs/adastatute08.htm#12210>
- 38 <https://www.ada.gov/pubs/adastatute08.htm#12210>
- 39 "Improve Tracking of Workplace Injuries and Illnesses." Federal Register, 12 May 2016, [www.federalregister.gov/documents/2016/05/12/2016-10443/improve-tracking-of-workplace-injuries-andillnesses](http://www.federalregister.gov/documents/2016/05/12/2016-10443/improve-tracking-of-workplace-injuries-andillnesses).
- 40 "UNITED STATES DEPARTMENT OF LABOR." Occupational Safety and Health Administration, [www.osha.gov/recordkeeping/finalrule/finalrule\\_faq.html](http://www.osha.gov/recordkeeping/finalrule/finalrule_faq.html).
- 41 "Calculating the Value of an Employee Assistance Program (EAP) from a CFO Perspective." Comprehensive EAP, 29 May 2014, [comep.com/calculating-the-value-of-an-employee-assistance-program-eap-from-a-cfoperspective/](http://comep.com/calculating-the-value-of-an-employee-assistance-program-eap-from-a-cfoperspective/).