



WELCOME to the
*Cannabis in the Workplace: An ECHO on
Health, Safety, and Management*

June 11 – August 29, 2025



Series Learning Objectives

After participating in this activity, learners will be able to:

1. Describe the potential impacts of cannabis on individual health and workplace health and safety
2. Recognize cannabis-related impairment and intervene to support health and safety in the workplace and the health of the involved individual
3. Describe legal and regulatory policies at state and national level that shape management of cannabis in the workplace
4. Develop and implement workplace policies related to cannabis that support health and safety

Series Sessions

Date	Session Title
6/11/2025	<u>Pharmacology of cannabis and impact on individual</u>
6/25/2025	<u>Impact of cannabis on workplace</u>
7/9/2025	<u>Cannabis testing</u>
7/23/2025	<u>Assessing impairment in the workplace</u>
8/6/2025	<u>Intervention, management of leave, treatment, re-entry into the workplace</u>
8/20/2025	<u>The legal and regulatory landscape</u>
8/27/2025	<u>Development of workplace policies</u>

Core Panel

Bob McLellan, MD, MPH

Charla Stevens, JD

Claire Bryant, MPH

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Legal/ Regulatory Expert at Sheehan Phinney

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Education Director, Project ECHO at Dartmouth Health

Cannabis Pharmacology and Actions

What Employers Need to Know

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Disclosures

- I do not have any relevant financial disclosures

Objectives

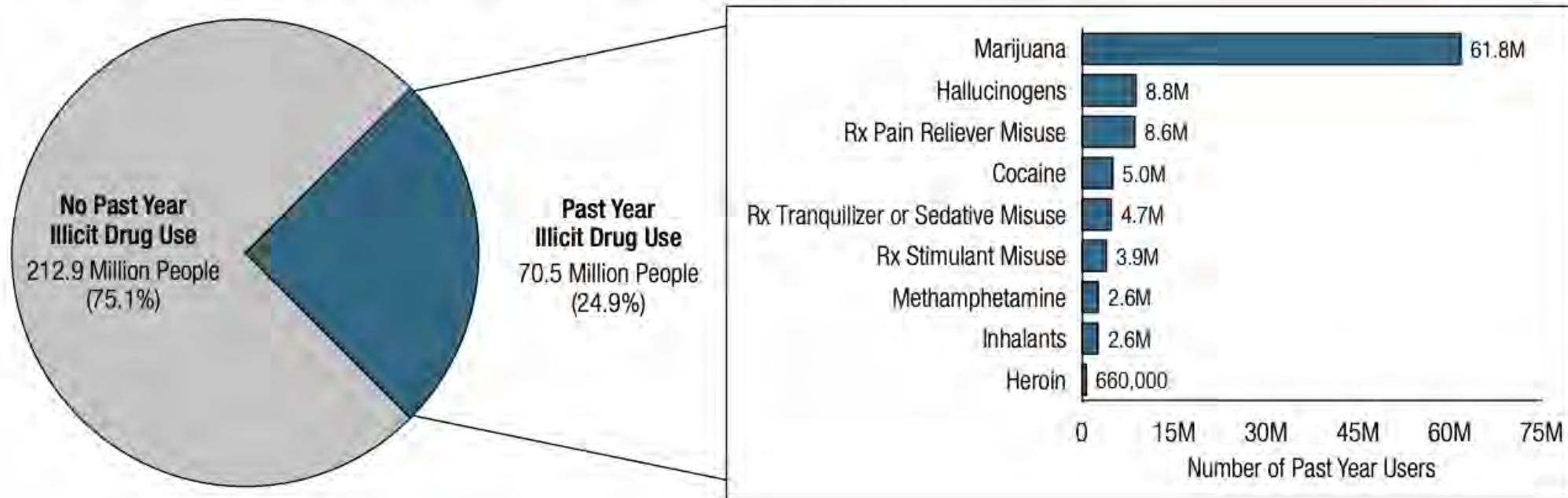
- Discuss prevalence of cannabis use
- Describe reported reasons for therapeutic & recreational cannabis use
- Outline diversity of U. S. state laws for therapeutic & recreational cannabis use
- Describe cannabis pharmacology and routes of administration
- Discuss cannabis risks, side effects and impact on work performance

Cannabis has been in use for centuries

- 4000 B.C use China
- 450-200 B.C. Greco-Roman Use
- 1000 – 1464 A.D. Treatment for epilepsy
- 1850 U.S. Pharmacopeia -neuralgia, opioid addiction, alcoholism
- 1937 Marihuana Tax Act; Federal prohibition
- 1942 Removed from U. S. Pharmacopeia
- 1964 THC discovered
- 1970 CSA Schedule 1 (Recreational >> criminalization)
- 1988 CBD1 and CBD2 receptors discovered
- 2000 – present Increased therapeutic use > Push for legalization

Cannabis Use in the U.S. 2023 Past year use

Figure 12. Past Year Illicit Drug Use: Among People Aged 12 or Older; 2023



Rx = prescription.

Note: The estimated numbers of past year users of different illicit drugs are not mutually exclusive because people could have used more than one type of illicit drug in the past year.

People use cannabis for a variety of reasons

- According to surveillance data 38% use for recreational, 33% for recreational and medical and 29% for medical only¹
- Young adults' motives for cannabis use were enjoyment/fun, conformity, experimentation, social enhancement, and relaxation²
- College students reported using cannabis for social facilitation, peer acceptance, emotional pain, and sex-seeking³
- In a small Canadian study of long term users the top reason for use was **relaxation**; other reasons included feeling good, enjoyment of media, medical use, inspiration, depression, anxiety, better sleep, and boredom⁴

¹Kurtzman & Wolff; *Drug Alcohol Depend*; 2021;226 <https://doi.org/10.1016/j.drugalcdep.2021.108880>; ²Lee et al.. *Addict Behav.* 2007;;32(7):1384-94. doi: 10.1016/j.addbeh.2006.09.010. ³Beck et al *Addict Behav.* 2009;34(9):764-8. doi: 10.1016/j.addbeh.2009.05.001; ⁴Hathaway. *Addiction Research & Theory*, 2003;11(6), 441–458.

People use cannabis to self-treat symptoms

27,169 respondents to 2018 online survey in U.S and Canada

- Self-reported ever symptom management use (27%)
- Higher in legal use states (34%) versus illegal use states (23%)
- Among reported reasons for symptom management:

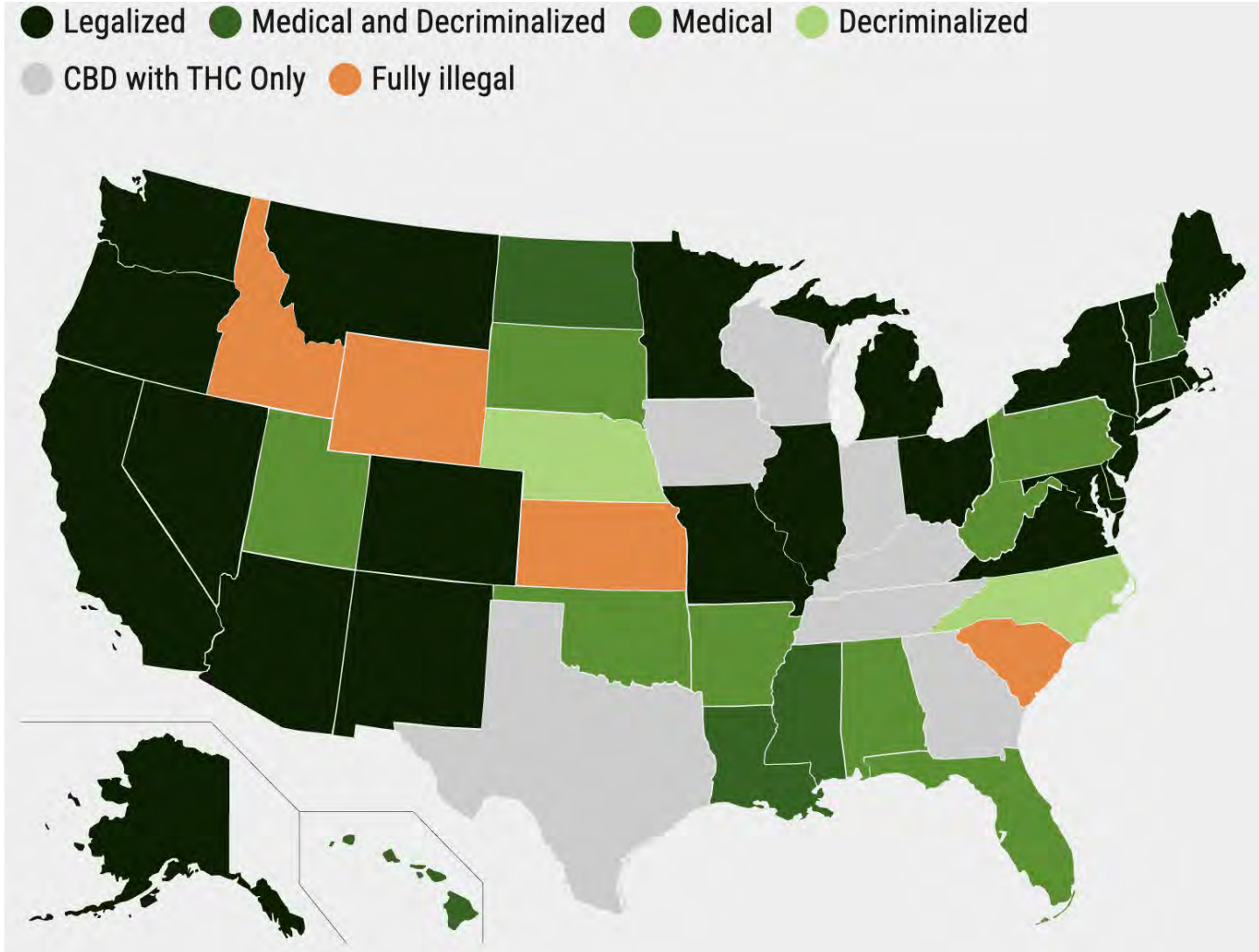
Physical symptoms

Pain 53%
Sleep 46%
Headaches 35%
Appetite 22%
N/V 21%

Mental health symptoms

Anxiety 52%
Depression 40%
PTSD/Trauma 17%
SUD 11%
Psychosis 4%

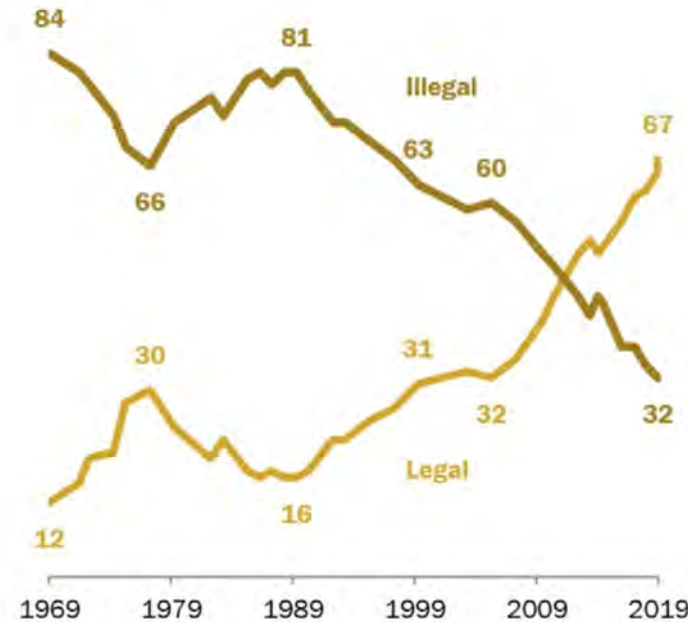
State cannabis policies are variable/changing



Majority of Americans now support legalization of marijuana

U.S. public opinion on legalizing marijuana, 1969-2019

Do you think the use of marijuana should be made legal, or not? (%)

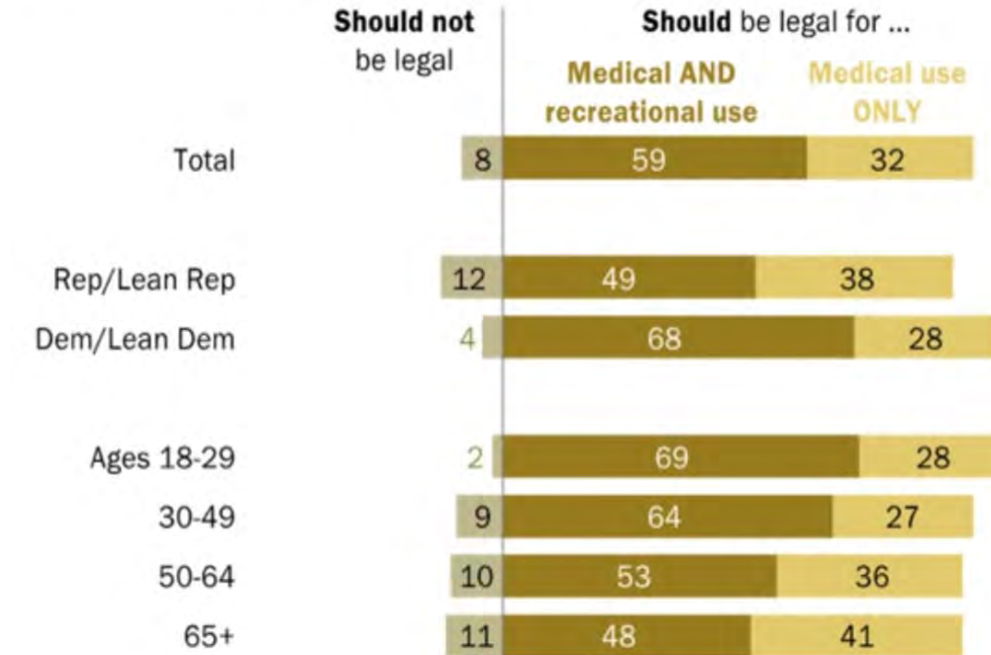


Note: No answer responses not shown. 2019 data from Pew Research Center's online American Trends Panel; prior data from telephone surveys. Data from 1969-1972 from Gallup; data from 1973-2008 from General Social Surveys.
Source: Survey of U.S. adults conducted Sept. 3-15, 2019.

PEW RESEARCH CENTER

Only about one-in-ten Americans oppose marijuana legalization for medical or recreational uses

% who say marijuana ...

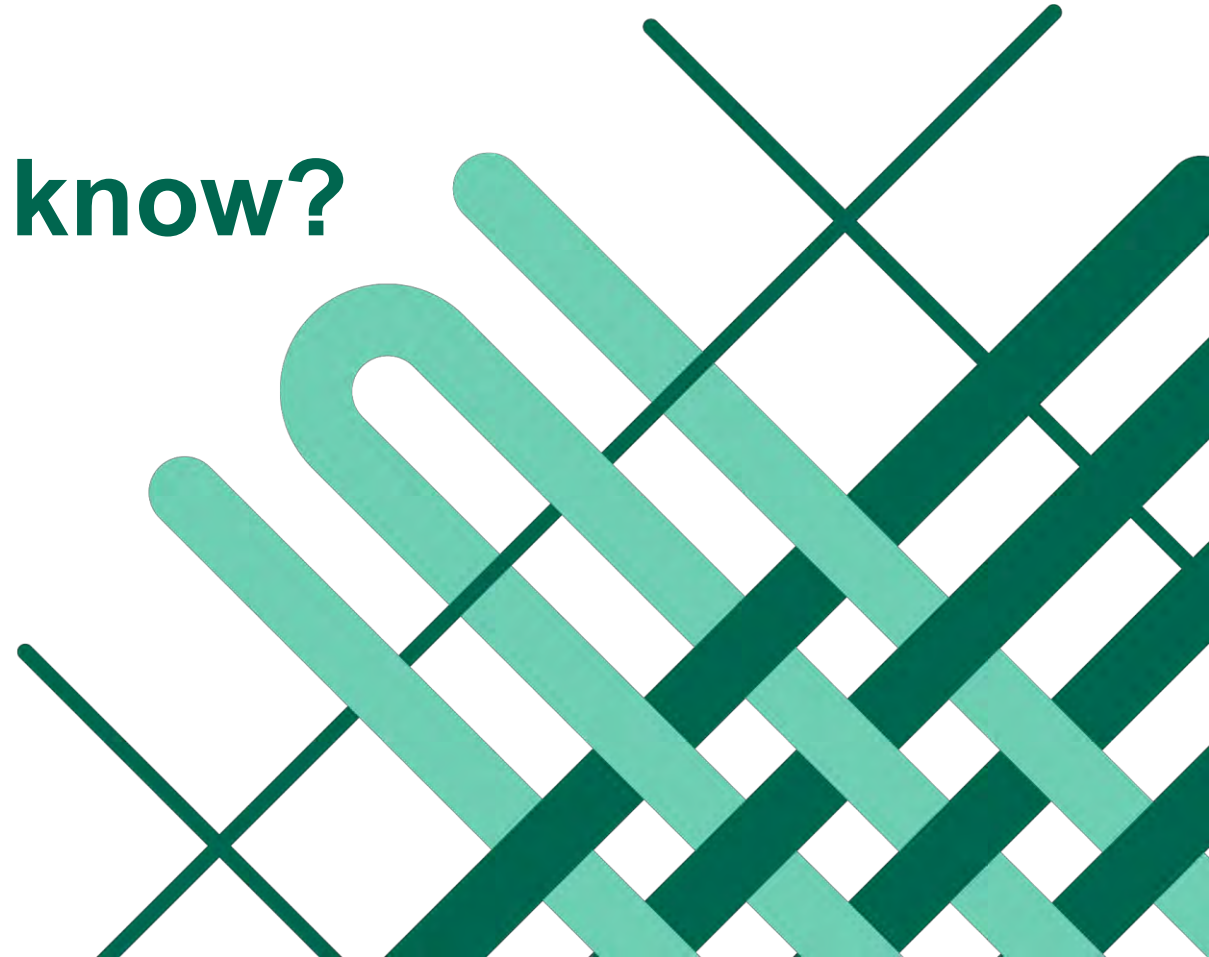


Note: No answer responses not shown.

Source: Survey of U.S. adults conducted Sept. 3-15, 2019.

PEW RESEARCH CENTER

Cannabis – What do we know?



Cannabis contains > 100 phytocannabinoids and > 600 chemical constituents

- Two most prevalent cannabinoids
 - **Δ^9 -tetrahydrocannabinol (THC)** - psychoactive; anti-emetic, analgesia, appetite stimulation (discovered 1964)
 - **Cannabidiol (CBD)** –not psychoactive; anti-convulsant, anxiolysis, anti-inflammatory
- Less studied cannabinoids & terpenes may contribute to effects
- NO standardization -Diverse strains bred and available
 - Very high THC concentrations are available
 - 1970s - 3-5% THC typical -Vape products > **94% THC available in dispensary**
 - Low THC, high CBD products and intermediate blends are available

Endogenous cannabinoid system

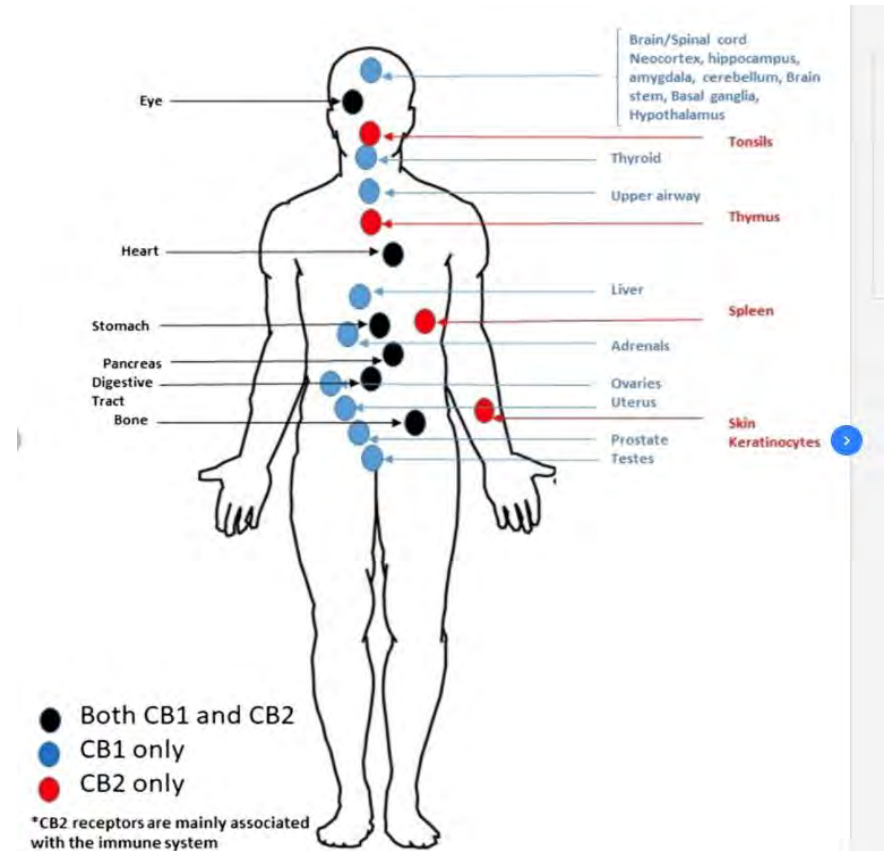
Endocannabinoids bind to cannabinoid receptors to exert diverse physiologic effects

- CB1 (primarily in nervous system)
- CB2 (primarily in immune system)

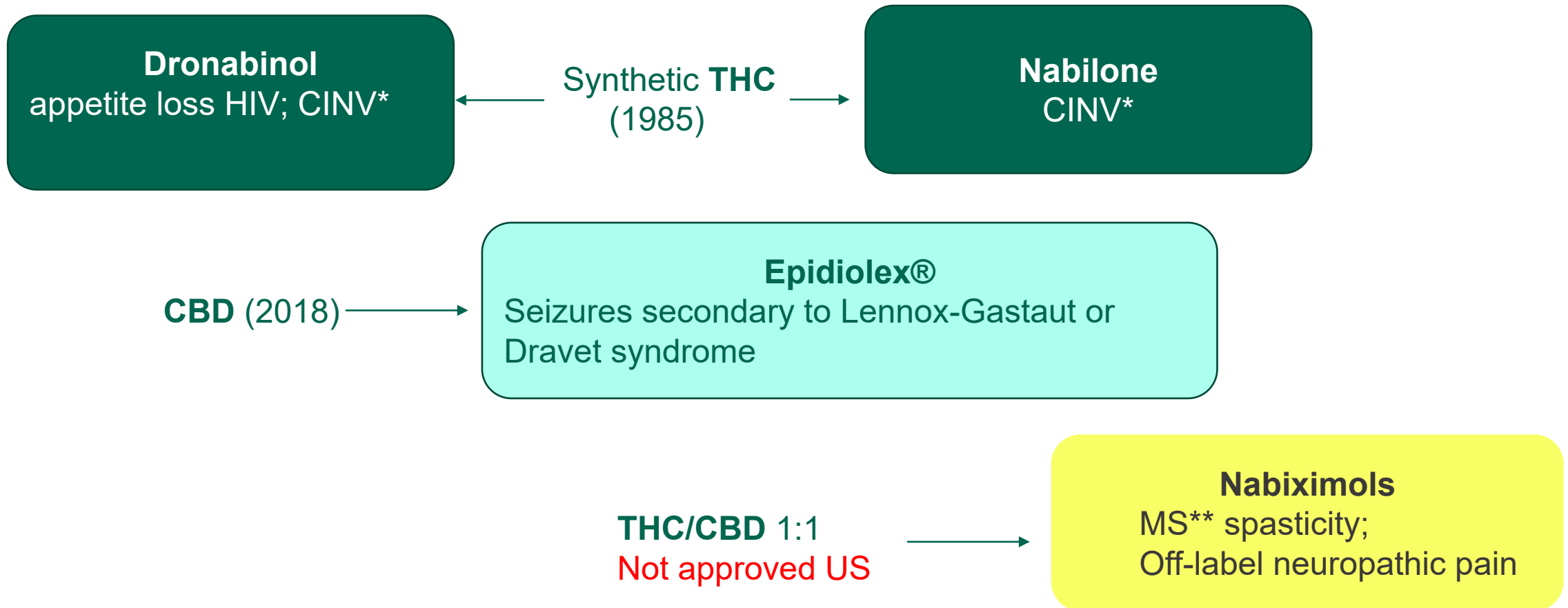
Physiologic roles in

- Nociception (pain regulation)
- Mood modulation including reward
- Cognition, learning & memory
- Energy balance, appetite

Implications: Limited understanding of the effects of exogenous (external) cannabinoids (like THC/CBD) on endogenous (internal) cannabinoid system



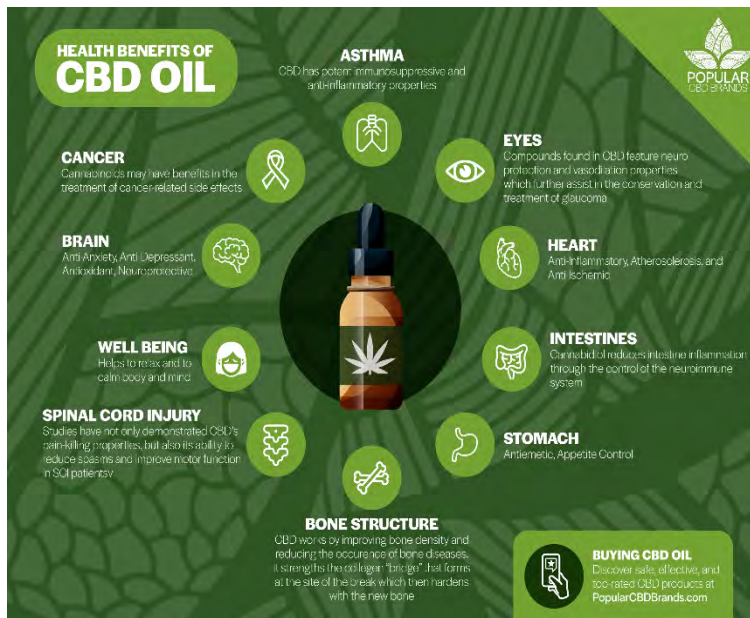
Three pharmaceutical cannabis products are available in the U. S.



*CINV – chemotherapy induced nausea and vomiting; **MS multiple sclerosis

Cannabidiol (CBD) is widely available, but not well-regulated

Marketed indications
not well studied



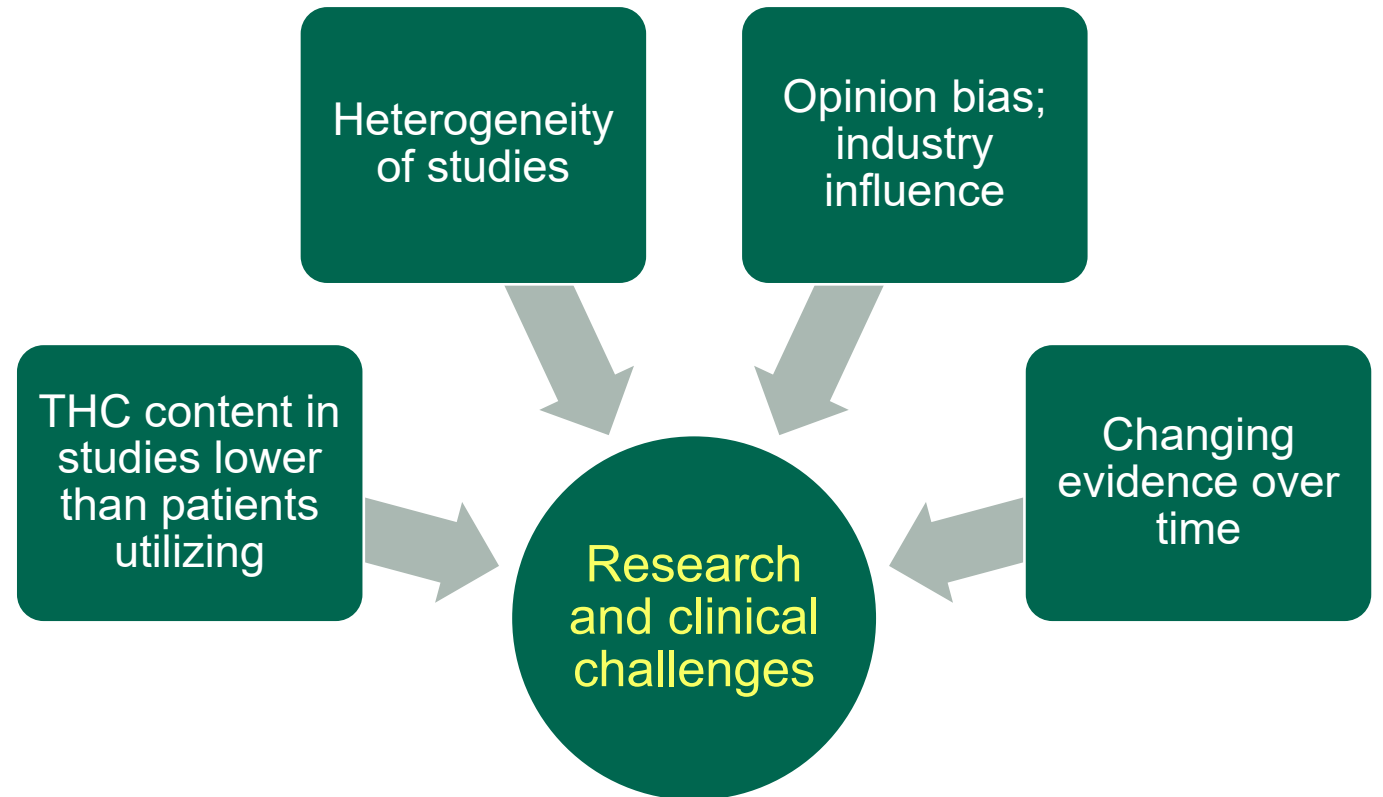
58 of 84 samples of CBD purchased online had
mislabeled CBD content Bonn-Miller et al. *JAMA*. 2017;318 (17):1708-1709



What does the evidence show about cannabis therapeutic effects?



Cannabis evidence of effects is difficult to accurately determine



Cannabis: Evidence of Effects

Substantial or
conclusive evidence
for efficacy

- Chronic pain in adults, particularly neuropathic pain^{1,2}
- Chemotherapy-induced nausea & vomiting^{1,3}
- Subjective spasticity multiple sclerosis¹
- Epilepsy (Dravet and Lennox-Gastaut) CBD Epidiolex®⁴

Moderate

- Short-term sleep^{1,5}

¹ NASEM; 2017 <https://www.nap.edu/catalog/24625/the-health-effects-of-cannabis-and-cannabinoids-the-current-state>; ² Nugent et al. 2017; 167(5):319-331. ³ Lichtman et al JPSM 2018 <https://doi.org/10.1016/j.jpainsymman.2017.09.001>

⁴ Chow et al. Support Care in Cancer. 2020;28:2095–2103 <https://doi.org/10.1007/s00520-019-05280-4> ; MacCallum & Russo. *Eur J Int Med.* 2018;49:12-19; ⁵ Privitera et al. *Epilepsia.* 2021;62(5):1130-1140 ⁵ Bonaccorso. *Neurotoxicol.* <https://doi.org/10.1016/j.neuro.2019.08.002>

Cannabis: Evidence of Effects

Limited

- Appetite & weight loss in HIV/AIDS¹
- Tourette symptoms¹
- Anxiety symptoms in social anxiety disorders (CBD)^{1,2}
- PTSD symptoms¹
- Dementia¹

Insufficient evidence

- Cancer cachexia >appetite, > side effects, <QOL³
- Cancer – most literature preclinical^{4,5}
- Neurodegenerative disorders¹
- Irritable bowel syndrome¹
- Addiction abstinence⁶

¹ NASEM. 2017; <https://www.nap.edu/catalog/24625/the-health-effects-of-cannabis-and-cannabinoids-the-current-state>; ²Wright. *Cannabis Cannabinoid Res* 2020. <https://pubmed.ncbi.nlm.nih.gov/32923656/>

³Wang et al. *Biomed Res Int*. 2019; <https://doi.org/10.1155/2019/2864384>; ⁴Abu-Amna et al. *Curr. Treat. Options in Oncol*. 2021;22:16 doi: 10.1007/s11864-020-00811; ⁵Goyal et al. *Comp Ther Med*. 2020; <https://doi.org/10.1016/j.ctim.2020.102336>; ⁶Bonaccorso. *Neurotoxicol*. <https://doi.org/10.1016/j.neuro.2019.08.002>

CBD may have efficacy for symptoms such as anxiety, insomnia, addiction, and mood, but high-quality studies lacking

- Trials suggest that CBD may be effective for some anxiety¹
 - Few human trials, mostly healthy males, social anxiety disorder²
- Preclinical, small clinical trials, anecdotal evidence
- *Unclear side effects of CBD use due to lack of studies*

Take home: Evidence is lacking, but people are experimenting with use of CBD for these conditions

¹Wright. *Cannabis Cannabinoid Res* 2020. <https://pubmed.ncbi.nlm.nih.gov/32923656/>

²Bonaccorso. *Neurotoxicol*. <https://doi.org/10.1016/j.neuro.2019.08.002>

Cannabis product formulations

Smoked

- Rapid onset of action 5-10 min
- Duration 2-4 hr
- Bioavailability 10-30%



Vaporization

- Rapid onset of action (peak 5-10 min)
- Metered dosing devices
- Risk of EVALI (e-cig/vaping associated lung injury)



Edibles

- Slower onset of action 60-180 min
- Duration 6-8 hours
- Bioavailability 6% extensive first pass effects

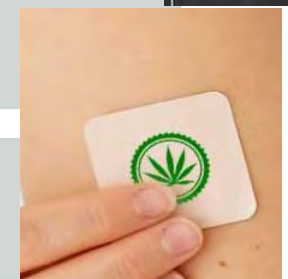


Transmucosal Sublingual

- More rapid onset of action than orals 15-45 minutes
- Duration 6-8 hours
- Pharmaceutical form (nabiximols) available

Transdermal Topical

- Variable onset - duration
- Highly lipophilic
- Slow onset, stable blood levels



Cannabis detection in urine drug testing varies

- Detection of THC in urine varies dependent on use
 - Single use 3 days
 - Moderate use (4x week) 5-7 days
 - Chronic use (daily) 10-15 days
 - Chronic heavy smoker >30 days

What are the adverse effects or potential harms of cannabis?



Reported THC adverse effects

Common reported adverse effects

- **CNS**
 - Drowsiness
 - Dizziness
 - Confusion
 - Mental Clouding
 - Slurred speech
- **Physical**
 - Tachycardia and hypotension
 - Nausea
 - Fatigue
 - Dry mouth
 - Cannabis hyperemesis syndrome

CBD also has adverse effects

- Adverse effects to CBD less studied except for FDA approved Epidiolex® for seizures
- Reported adverse effects include
 - Drowsiness/sedation
 - Mood changes
 - Interactions with prescription medications that may affect actions and cause toxicity
 - Liver toxicity
 - Reproductive and developmental effects

Take home: People are experimenting with CBD and may not be cognizant of potential adverse effects

Potential harms of cannabis use

Prenatal developmental changes

- Potential cognitive deficits, learning disabilities

Developmental changes in adolescents

- Intellectual, motivational, maturational

Motor vehicle accidents from acute cannabis intoxication

- Some studies show a significant correlation between high THC blood concentrations and car crash risk

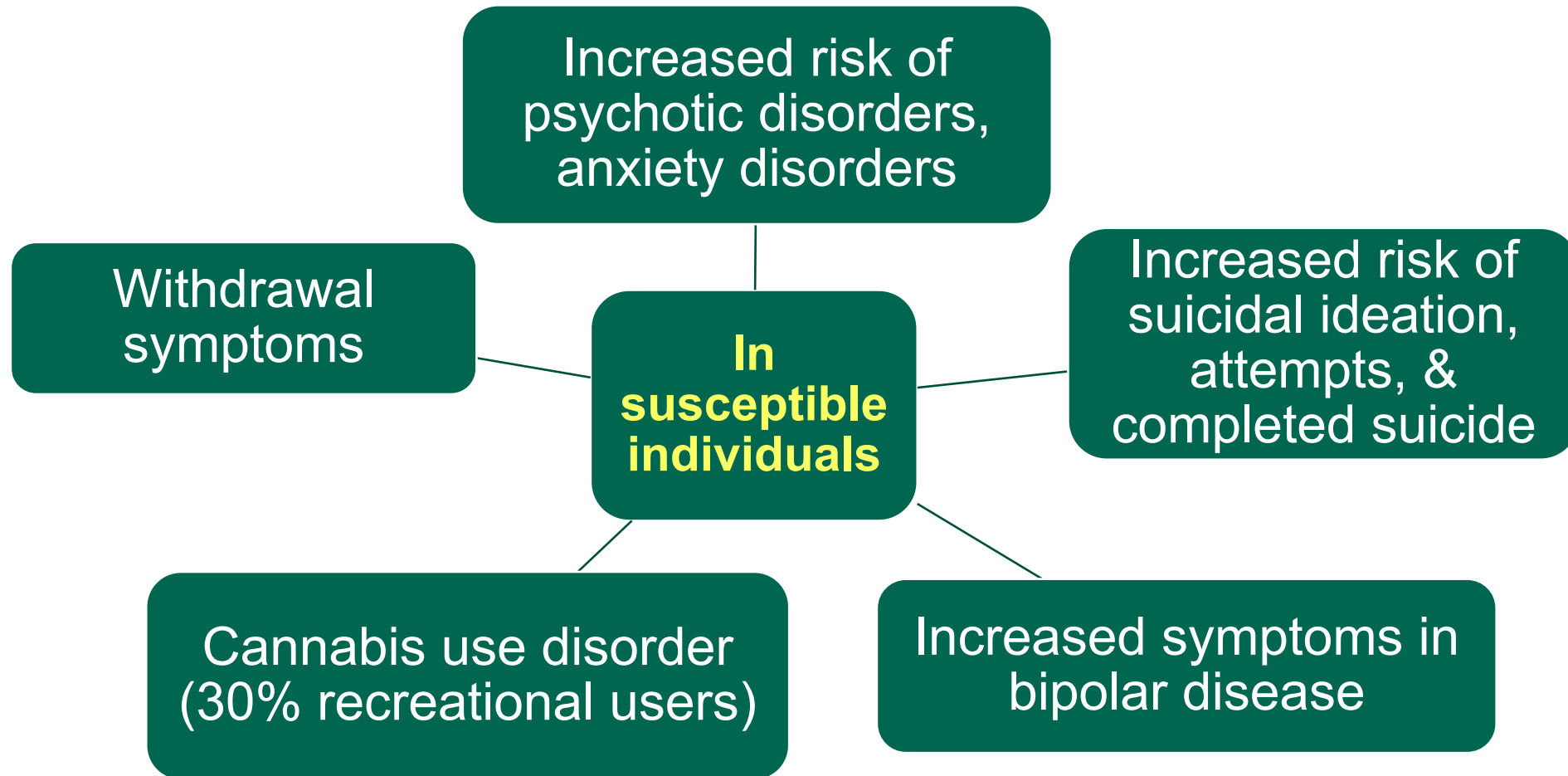
Cardiopulmonary

- Mixed effects BP, Limited evidence - trigger MI, CVA, exacerbation COPD

Cannabis may affect work performance

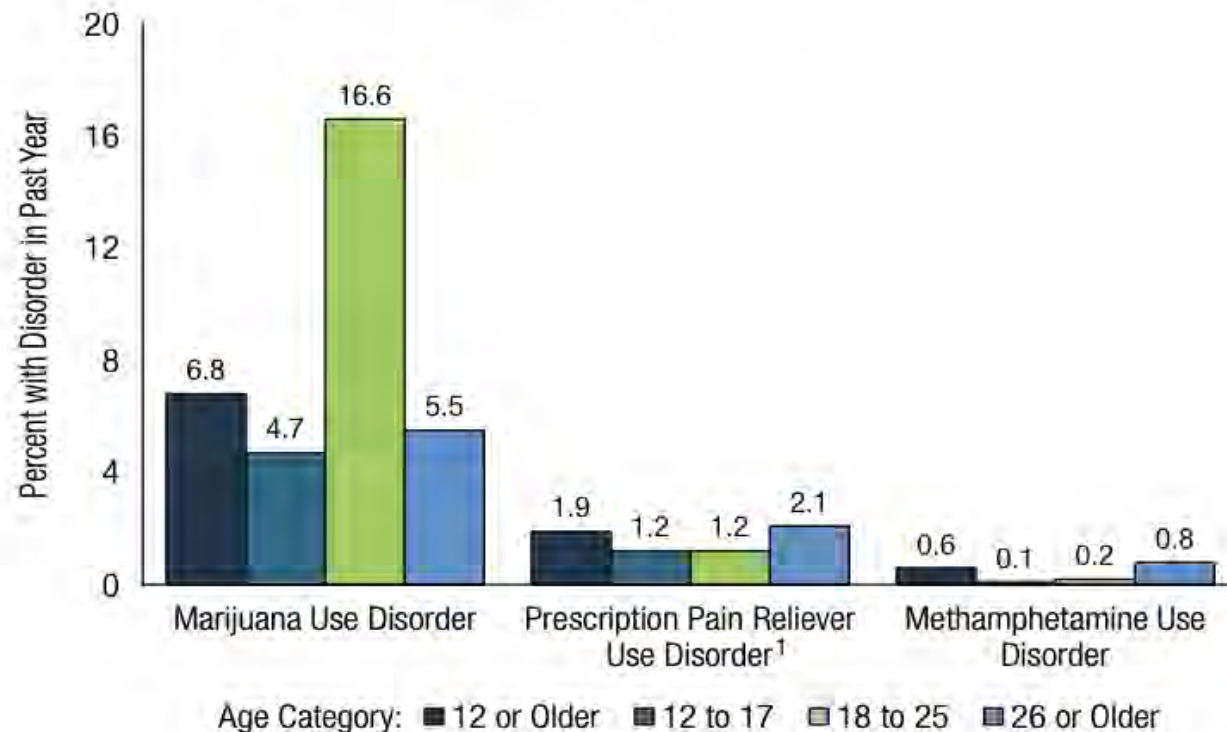
- High quality studies evaluating effect of **medical** cannabis on workplace performance lacking¹
 - Reported ‘adverse effects’ such as sedation, nausea/vomiting, dizziness and euphoria could be associated with performance
- Canadian study showed 2-fold increase of injury risk for ‘workplace cannabis use’ but none for ‘non-workplace use’²
- Case control study recreational marijuana legalization adoption and workplace injuries among younger workers aged 20 to 34 years
 - Recreational cannabis legalization adoption associated with 8.4% increase in injury³

Potential mental health harms of cannabis



Cannabis Use Disorder (CUD) & absenteeism

Figure 32. Marijuana Use Disorder, Prescription Pain Reliever Use Disorder, or Methamphetamine Use Disorder in the Past Year: Among People Aged 12 or Older; 2023



Dose-response relationship observed between CUD severity and skipping work²

Some take away considerations

- Cannabis use is common in the U.S.
- People use cannabis for diverse reasons
- Laws and regulations are variable at state levels
- Cannabis use may impact individual well-being, work performance and workplace safety

Selected References

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- Substance Abuse and Mental Health Services Administration. Know the risks, effects and side effects of marijuana. <https://www.samhsa.gov/substance-use/learn/marijuana/risks> (updated 11/2024)
- Substance Abuse and Mental Health Services Administration. Cannabidiol (CBD) – Potential harms, side effects and unknowns. [Cannabidiol \(CBD\) – Potential Harms, Side Effects, and Unknowns](#) (updated 2/2023)
- Yang KH, Mueller L, El-Shahawy O, Palamar JJ. Cannabis Use, Use Disorder, and Workplace Absenteeism in the U.S., 2021–2022. *American Journal of Preventive Medicine*. 2024;67(6):803-810. doi:10.1016/j.amepre.2024.07.021

Thank you





WELCOME to the
*Cannabis in the Workplace: An ECHO on
Health, Safety, and Management*

Session 2, Impact of Cannabis on the Workplace, June 25, 2025





Marijuana in the Workplace

*Douglas W Martin MD FACOEM FAAFP FIAIME
CNOS Occupational Medicine*

Disclosure of Conflicts of Interest Regarding MRO and Fitness for Duty

ACOEM

- MRO Section Chair (2000-2020) volunteer
- Marijuana in the Workplace Taskforce (2015-present) volunteer
- MRO Comprehensive and Fast Track Course Chair (honoraria)
- Past President (2022-2023) volunteer
- Board of Directors (2025-2028) volunteer
- ACOEM Practice Guidelines Panel (volunteer)

MROCC

- Board of Directors (2022-present) stipend
- Secretary/Treasurer (2023-present)

Springer Publications

- *Independent Medical Evaluation – A Practical Guide* (royalty)

AMA

- *AMA Guides to the Evaluation of Workability and Return to Work 2nd ed Chapter 10 – The Challenges to and the Importance of the Primary Care Physician's Role in Return to Work.* (unpaid)

Principle Sources of Data on Drug Use

1. National Survey on Drug Use and Health (NSDUH) – SAMHSA

- Annual survey of those age 12 and older in civilian households and non-institutionalized group quarters
- 2022 expanded from household interviews to include web

2. Monitoring the Future Survey – NIDA through U. of Michigan

- Annual survey of 8th, 10th, and 12th grade secondary school students

3. Drug Abuse Warning Network (DAWN) - SAMHSA

- Tracked drug-related ED visits in 52 hospitals through 2021

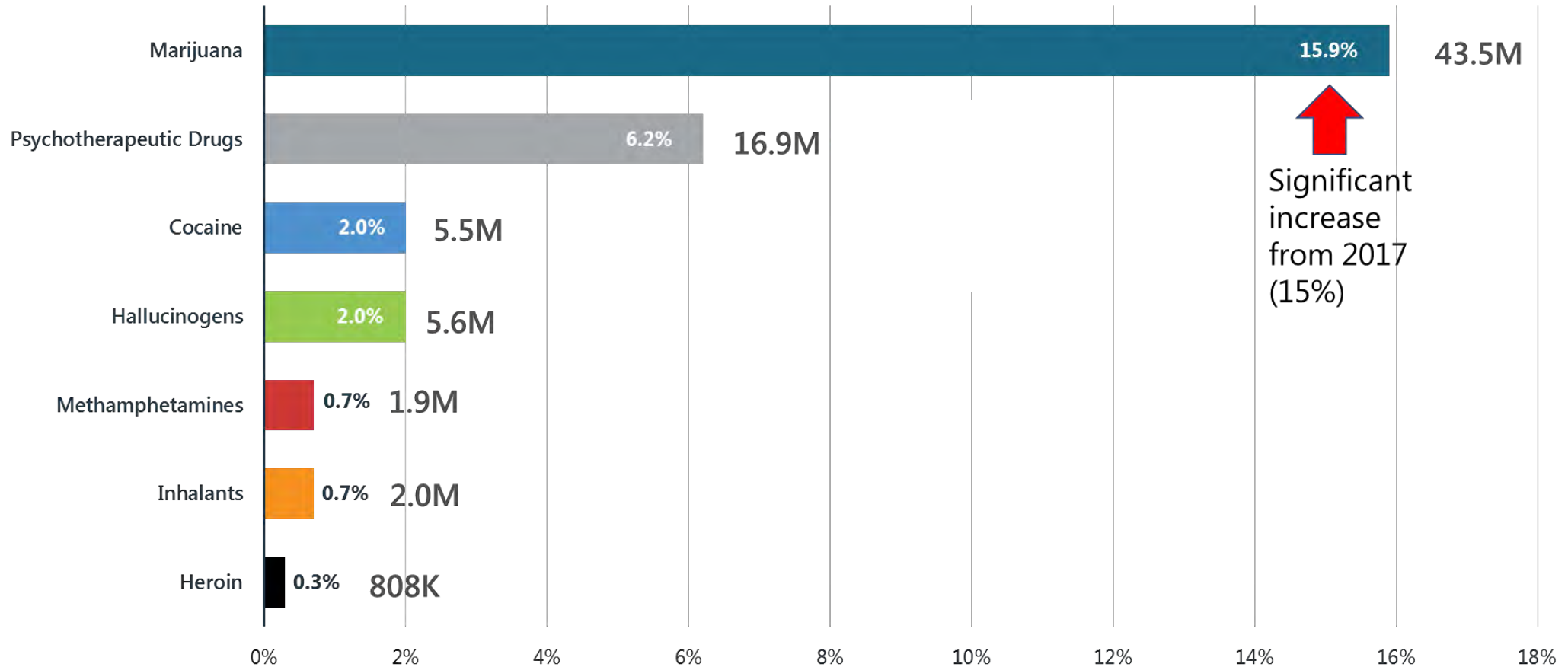
4. National Drug Early Warning System (NDEWS) - NIDA

- 18 sentinel communities throughout US, expanded in 2020

OBJECTIVES

- Review incidence and demographics of worker cannabis use
- Articulate the current consensus recommendations regarding safety sensitive work
- Identify challenges and future goals regarding the determination of work performance and cannabis use

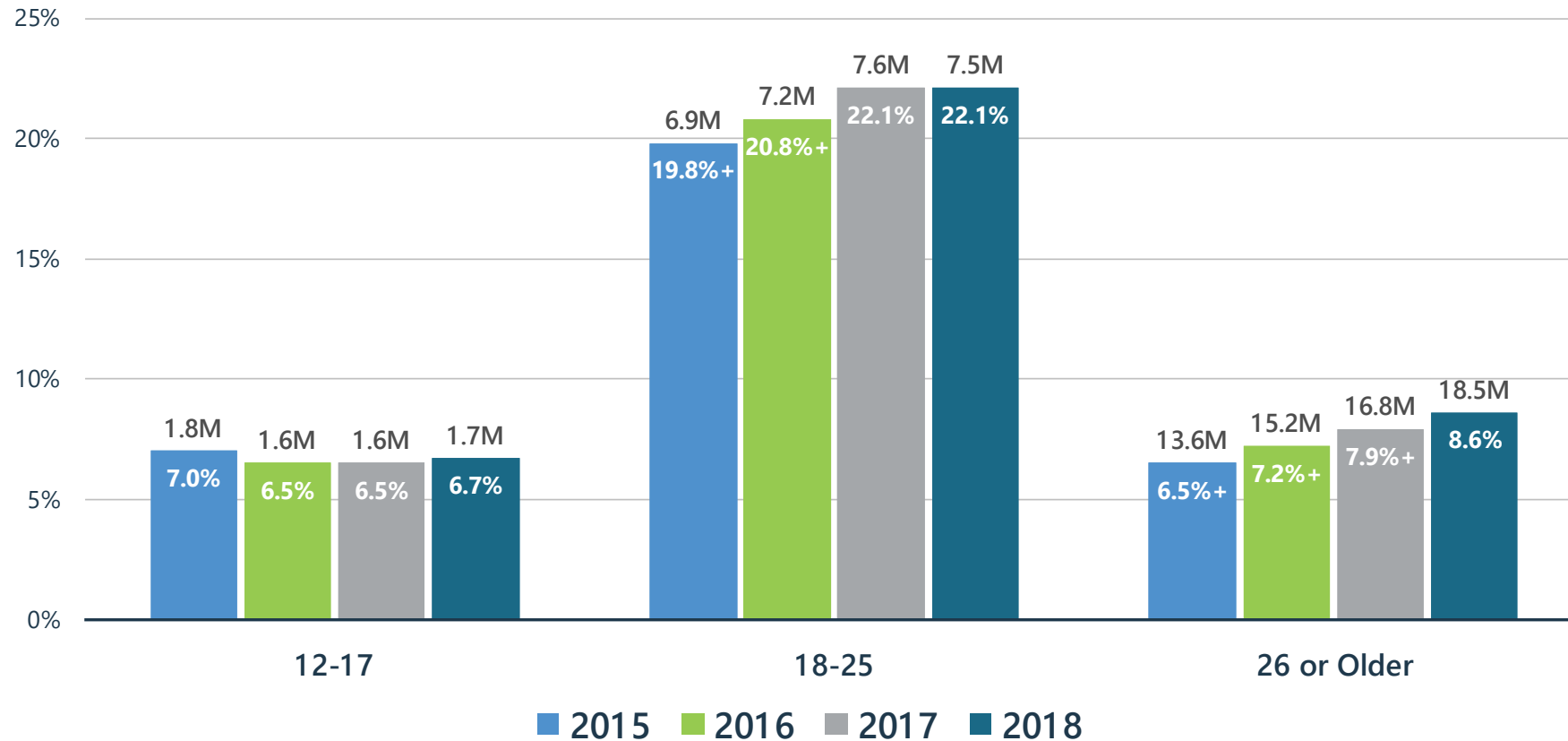
Most Commonly Used Drugs

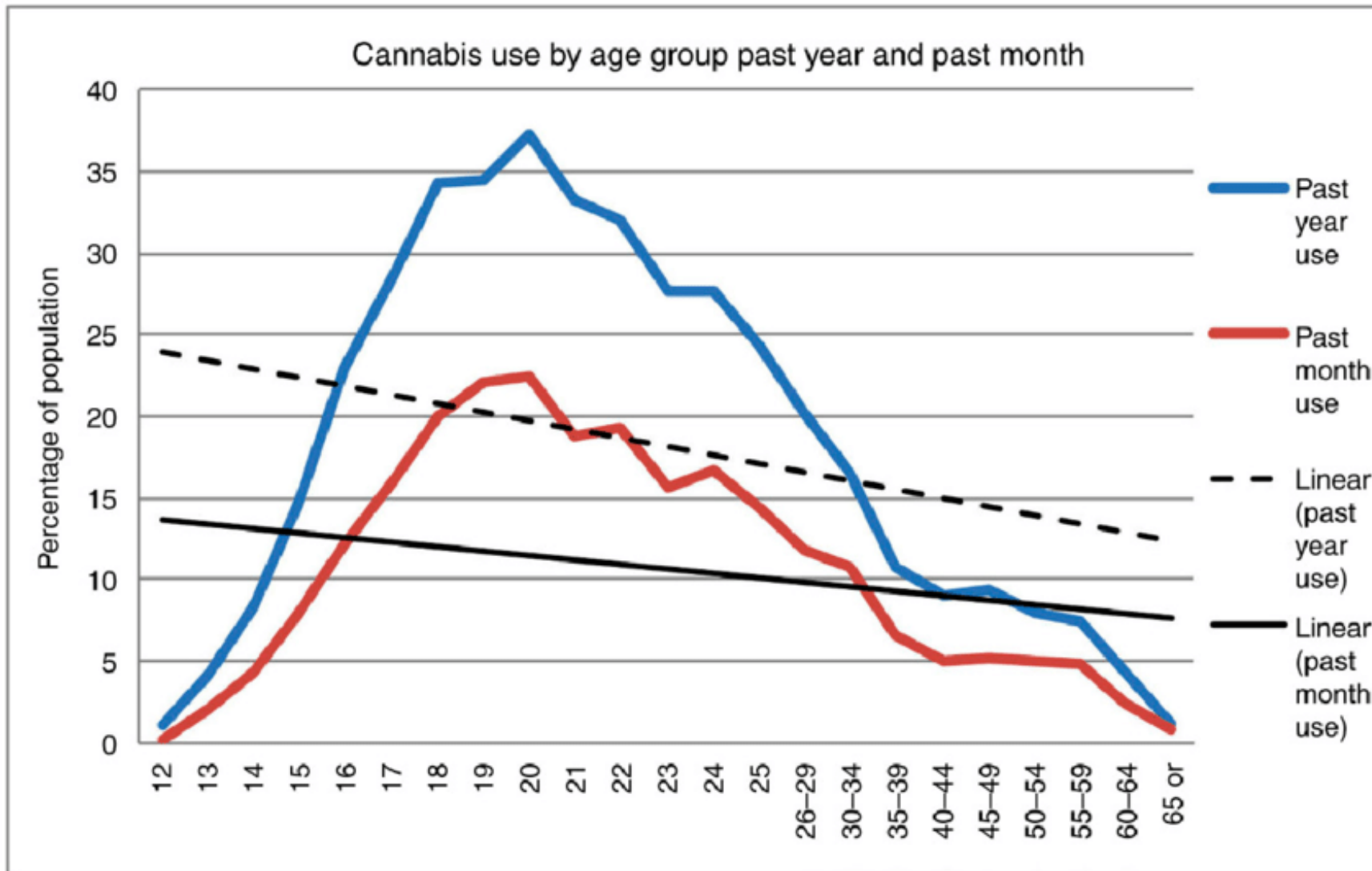


Past year, 12+
National Survey on Drug Use & Health, 2018
<https://x.com/samhsagov/status/1164201504825335810>

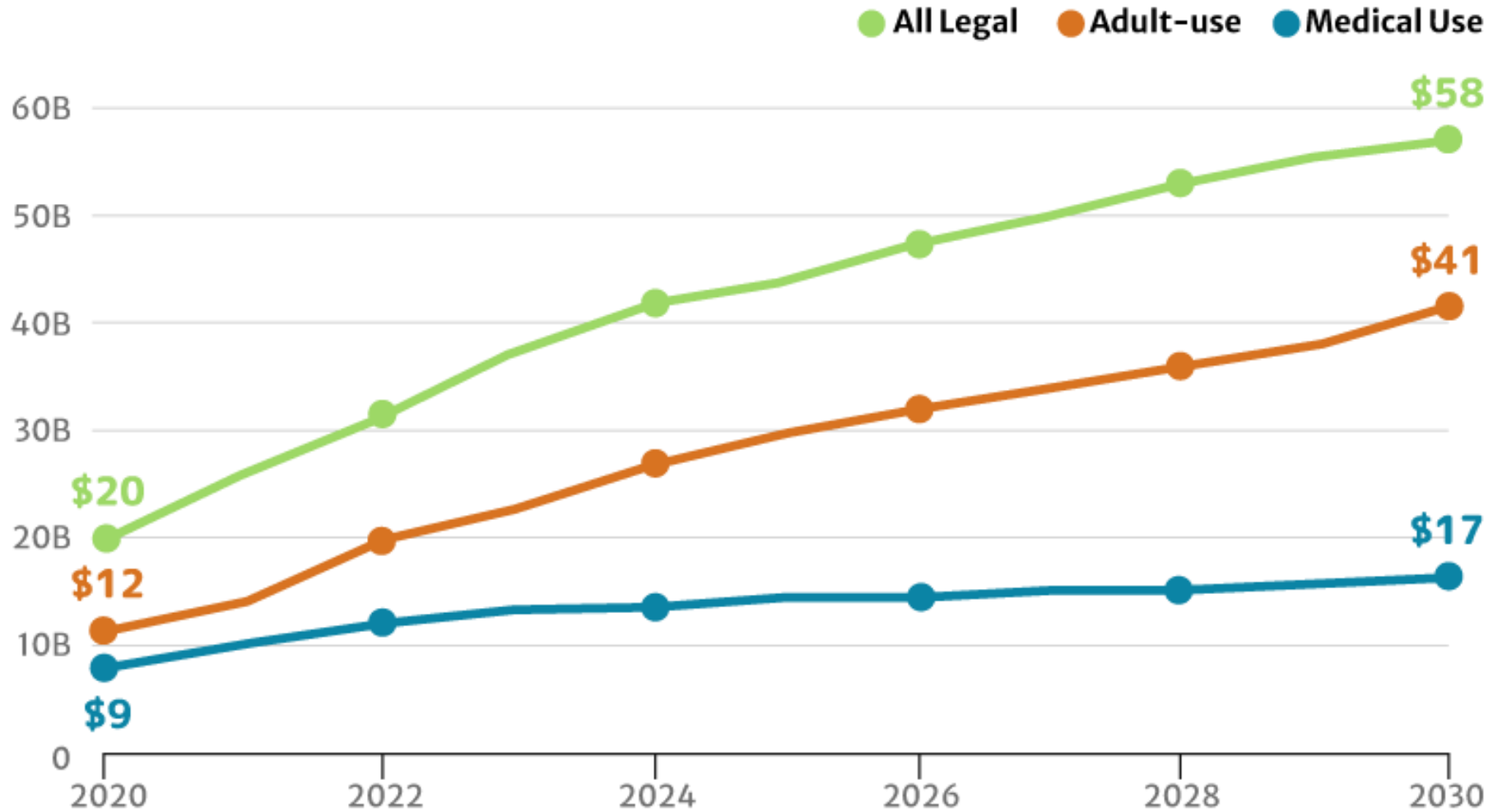
Marijuana Use

+ Difference between this estimate and the 2018 estimate is statistically significant at the .05 level.



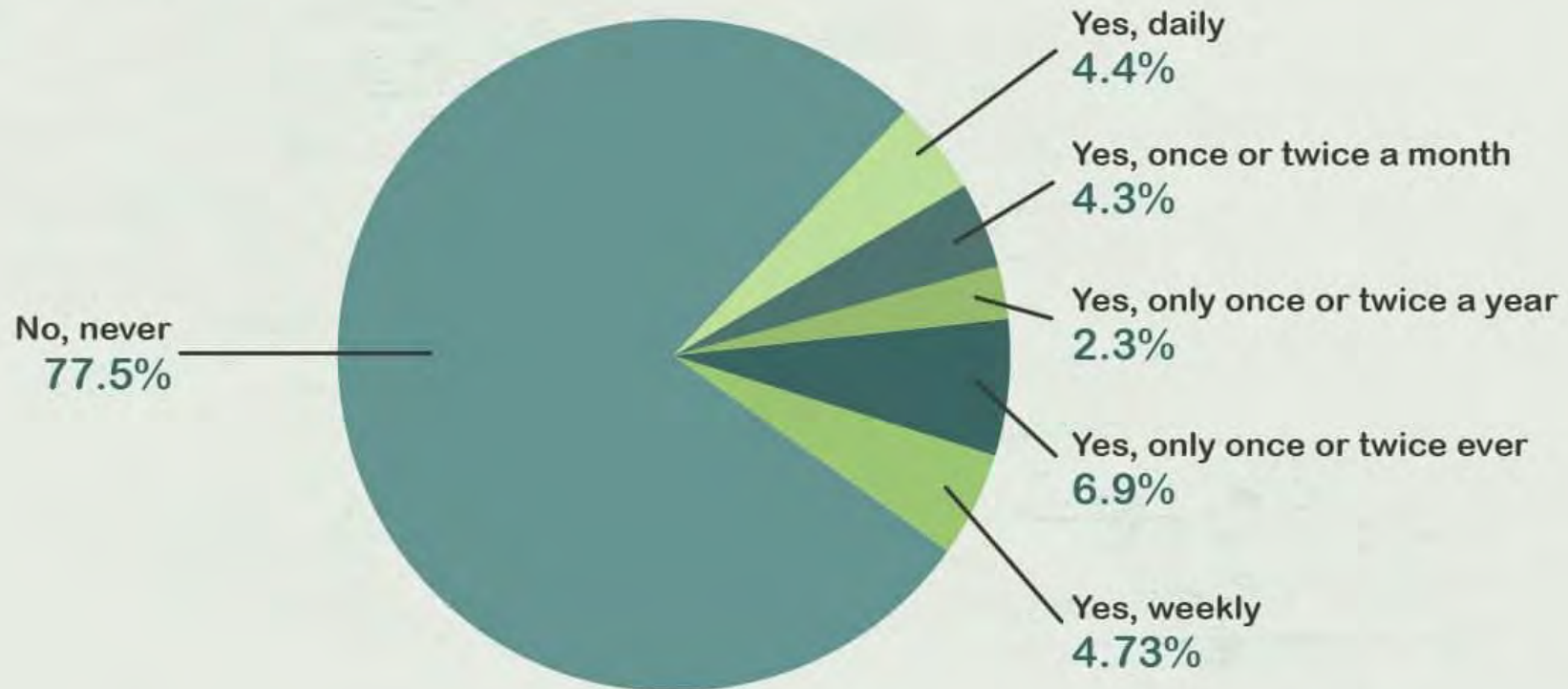


Projected Sales of Legal Marijuana in the US



RECREATIONAL MARIJUANA USE IN THE WORKPLACE

What percentage of people say they use recreational marijuana in the workplace?



Created by Drugabuse.com

Legalization of Cannabis – Implications for Workplace Safety

Statement from the American College of Occupational and Environmental Medicine
August 2023



AMERICAN COLLEGE OF
OCCUPATIONAL AND
ENVIRONMENTAL MEDICINE

ACOEM POSITION STATEMENT

Legalization of Cannabis – Implications for Workplace Safety

STATEMENT FROM THE AMERICAN COLLEGE OF OCCUPATIONAL AND ENVIRONMENTAL MEDICINE

The American College of Occupational and Environmental Medicine (ACOEM) is the largest international medical society representing occupational and environmental medicine (OEM) physicians and associated health care professionals. The College provides leadership to promote optimal health and safety of workers, workplaces, and environments.

Cannabis has the capacity to impair neurocognitive and psychomotor function, and its legalization has huge public health implications. Before Congress passes any legislation regarding cannabis, the College urges that the impact of such legislation on workplace safety be considered. To date, the house of medicine has not addressed the impact of cannabis on workplace safety.

Employers have a legal responsibility to protect employees from workplace illness or injury under the Occupational Safety and Health Administration's general duty clause. Employers also have an ethical responsibility to prevent impaired workers from exposing themselves, their co-workers, and/or the general public to risk of harm. Regardless of cannabis' legal status in a jurisdiction, ACOEM strongly

ACOEM Comment on Rescheduling of Marijuana July 22, 2024



AMERICAN COLLEGE OF
OCCUPATIONAL AND
ENVIRONMENTAL MEDICINE

July 22, 2024

VIA ELECTRONIC SUBMISSION

The Honorable Merrick B. Garland
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20530

The Honorable Anne Milgram
Administrator
Drug Enforcement Administration
8701 Morrisette Drive
Springfield, VA 22152

RE: Comments on Proposed "Schedules of Controlled Substances: Rescheduling of Marijuana" [Docket No. DEA-1362; A.G. Order No. 5931-2024]

Dear Attorney General Garland and Administrator Milgram,

The American College of Occupational and Environmental Medicine (ACOEM) appreciates this opportunity to comment upon the Department of Justice's (DOJ) proposal to transfer marijuana from schedule I of the Controlled Substances Act (CSA) to schedule III of the CSA, "Schedules of Controlled Substances: Rescheduling of Marijuana"¹ (Docket No. DEA-1362; A.G. Order No. 5931-2024) [Referred to as "NPRM" within]. Founded in 1916, ACOEM is the nation's largest medical society dedicated to promoting worker health through preventive medicine, clinical care, research, and education. The College represents Occupational and Environmental Medicine (OEM) physicians and other healthcare professionals devoted to preventing and managing occupational and environmental injuries and exposures.

While ACOEM does not have a formal position on the legalization of marijuana, we are acutely concerned about the broad public health and safety consequences of the reclassification of

https://acoem.org/acoem/media/PDF-Library/07-22-24_ACOEM_Comments_DOJ_Marijuana_Rescheduling_NPRM.pdf

What Forms the Basis for the ACOEM Position Statement (and adopted by other organizations?)

- Mainly from research on the effects of driving
- **“Determining the magnitude and duration of acute $\Delta 9$ -tetrahydrocannabinol ($\Delta 9$ -THC)-induced driving and cognitive impairment: A systematic and meta-analytic review”**
***Neuroscience and Biobehavioral Reviews*, July ‘21, D. McCartney, et. al.**
- Cannabis impairs driving performance and crucial cognitive skills.
- Following inhalation $\Delta 9$ -THC 20mg, driving-related cognitive skills are predicted to recover within ~5 hours, and nearly all within 7 hours. Impairment from oral consumption of $\Delta 9$ -THC may persist for a longer duration.
- The magnitude of impairment varies based on factors like dosage, time elapsed after consumption, tolerance, route of administration and the specific cognitive skill being evaluated.

Cannabinoid Use for Safety-Critical Workers

ACOEM Practice Guidelines - effective January 28, 2025

Not Recommended

Acute or chronic cannabinoid use is not recommended for individuals who perform safety-critical jobs. These jobs include the operation of motor vehicles, forklifts, overhead cranes, heavy equipment, or other modes of transportation; sharps work (e.g., knives); work with injury risks (e.g., heights); and tasks involving high levels of cognitive function and judgment. There are other management strategies with less risk of impairment.

Strength of evidence Not Recommended, Evidence (C)

Level of confidence Moderate

Rationale

See the section on Adverse Events for details on motor vehicle collision and injury risk. Epidemiological and driving simulator studies are largely consistent that there is significant risk of motor vehicle crashes associated with cannabinoids. Thus, the preclusion of safety-critical job functions while under treatment with either medical or recreational cannabinoids is recommended.

Recent Literature on Workplace Accidents

“Recreational Marijuana Legalization and Workplace Injuries Among Younger Workers” *JAMA*, Feb., ‘24, L. Li, et. al.

- ~10% increase in on-the-job injuries among 20-to 34-year-old workers in RCL (recreational cannabis law) states.
- Injury rate per 100 workers rose 8.4% in RCL states.
- In contrast, no link between workplace injuries and cannabis use was found in the states that don’t permit the sale of cannabis for recreational use.
- Authors speculated older workers use cannabis for pain management and sleep disorders > recreational purposes.

Occupational & Environmental Association of Canada Position Statement on Cannabis Use and Work

“It is recognized that the timing and duration of cannabis impairment is variable and that more research is needed in this regard. To provide practical guidance, until definitive evidence is available, it is not advisable to operate motor vehicles or equipment or engage in other safety-sensitive tasks for 24 hours following cannabis consumption, or for longer if impairment persists.”

Workplace Performance and Cannabis

- There is not much research on this topic.
- What is published is mixed
- One study, reported by the National Institute on Drug Abuse (NIDA), found 55% more industrial accidents, 85% more injuries, and 75% greater absenteeism among employees who tested positive for marijuana compared to those who tested negative.
[NIDA Report: Marijuana https://www.drugabuse.gov/publications/research-reports/marijuana](https://www.drugabuse.gov/publications/research-reports/marijuana)
- However, not all research is as conclusive:
A systematic review published in May 2020 found that the current body of literature does not provide sufficient evidence that marijuana users are at increased or decreased risk for occupational injury, and that further high-quality research is needed to eliminate study biases and provide clarity on causality.

Everyone Is Looking for the Magic Test That Can Predict Worker Fitness, But....

- No conclusive test for impairment
- Stratification of risk: low, moderate, high risk of impairment (useful?)
- Factors include:
 - a. THC dosage
 - b. Route of administration
 - c. Concurrent medications
 - d. Recreational substance use
 - e. Education and monitoring, HCP, Products

Takeaways

- Both medicinal and recreational cannabis is here to stay
- There is rightful concern about workers who use cannabis regarding safety sensitive job tasks and overall worker performance
- WE NEED MORE RESEARCH
- The struggle on surveillance, monitoring, and implementation of policies focused on worker health and risk mitigation continues and is not simple.

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WELCOME to the
*Cannabis in the Workplace: An ECHO on
Health, Safety, and Management*

Session 3, Cannabis Testing, July 9, 2025



Cannabis in the Workplace: Cannabis Testing

Michael J. Kosnett, MD, MPH, FACMT

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University of Colorado School of Medicine, and

Department of Environmental and Occupational Health

Colorado School of Public Health

Michael.Kosnett@cuanschutz.edu

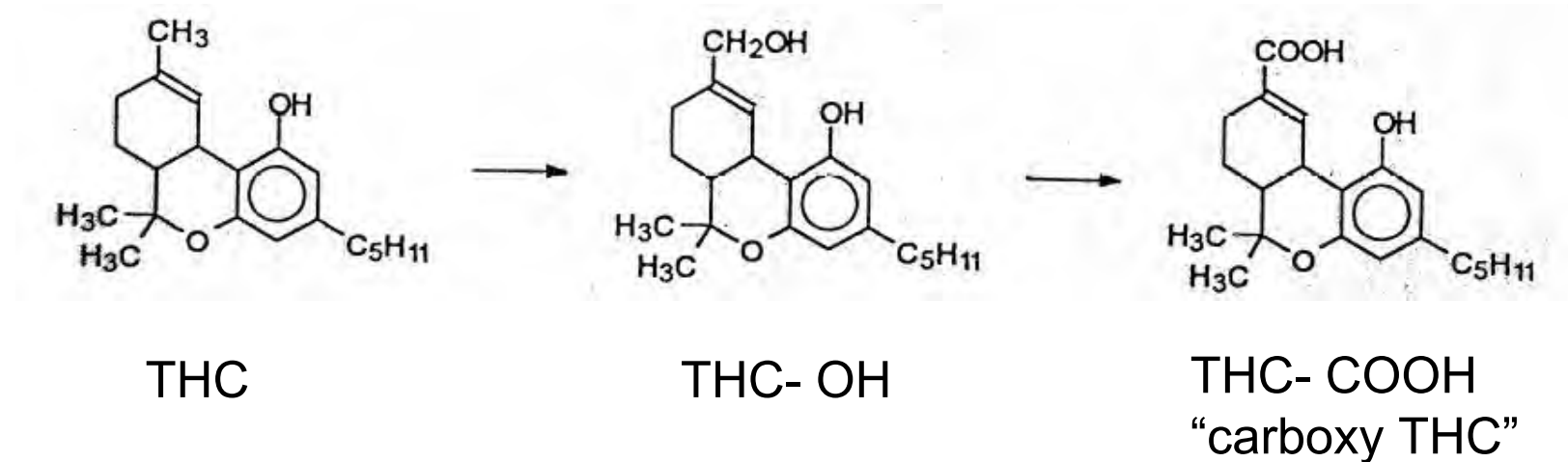
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Key Considerations for Workplace Drug Testing for Cannabis

- 15 to 20 percent of US teens and adults use cannabis at least monthly [SAMHSA, 2024]
- Among those, approximately one-third to one-half use it on a daily or near daily basis [CDC, BRFSS, 2024]
- Chronic frequent users develop tolerance to the acute effects of cannabis on performance [Ramaekers et al, 2009; Desrosiers et al, 2015]
- Acute impairment, when it occurs, usually resolves by 5 hours (inhaled) or by 8 hours (oral) [Arkell et al, 2021]

Within-person decrements in driving performance or psychomotor function appear small relative to population variability and challenging to detect in the absence of baseline measurements.

Is there a reliable approach to detection of recent cannabis use that *possibly* caused impairment when investigating transportation crashes or workplace accidents?



Urine workplace drug testing measures THC-COOH, an inactive metabolite that may be detectable days to weeks after last use

Journal of Analytical Toxicology, Vol. 32, October 2008

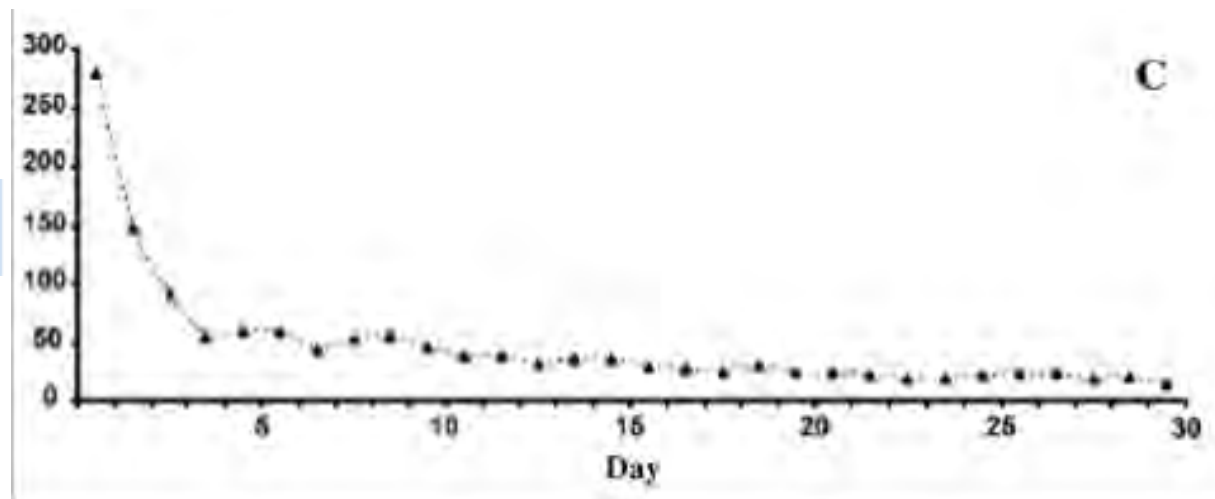
Urinary Elimination of 11-Nor-9-Carboxy- Δ^9 -tetrahydrocannabinol in Cannabis Users During Continuously Monitored Abstinence*

Robert S. Goodwin¹, William D. Darwin¹, C. Nora Chiang², Ming Shih², Shou-Hua Li², and Marilyn A. Huestis^{1,†}

¹Chemistry and Drug Metabolism Section, Intramural Research Program and ²Division of Pharmacotherapies and Medical Consequences of Drug Abuse, National Institute on Drug Abuse, National Institutes of Health, Rockville, Maryland

THC-COOH
Cr

ug / g Cr



It may take several hours to a few days after last usage for THC- COOH to reach peak levels in the urine (Huestis and Cone, 1998; Niedbala et al, 2001; Goodwin et al, 2008).

Accordingly, the concentration of THC-COOH in the urine of regular marijuana users is predominantly a reflection of past usage, and not consumption within the past several hours (Desrosiers et al, 2014)



U.S. Department
of Transportation
**National Highway
Traffic Safety
Administration**

Drugs and Human Performance Fact Sheets (2014 update)

Cannabis: Interpretation of Urine Test Results: Detection of total THC metabolites in urine, primarily THC-COOH-glucuronide, only indicates prior THC exposure. Detection time is well past the window of intoxication and impairment.



A positive urine drug test does not indicate the last time of cannabis use by the donor, the amount that they consumed, or their state of intoxication (if any).

Is it essential for your employees to totally abstain from cannabis use, including during non-work hours, weekends, and holidays?

If the answer is no:

Why would you conduct post-accident urine testing for cannabis (THC-COOH)?

Testing of **oral fluid** for THC, as an alternative to urine drug testing, was approved by HHS (SAMHSA) in 2019; and by DOT in 2022* for mandatory federal workplace drug testing. (*Implementation pending)

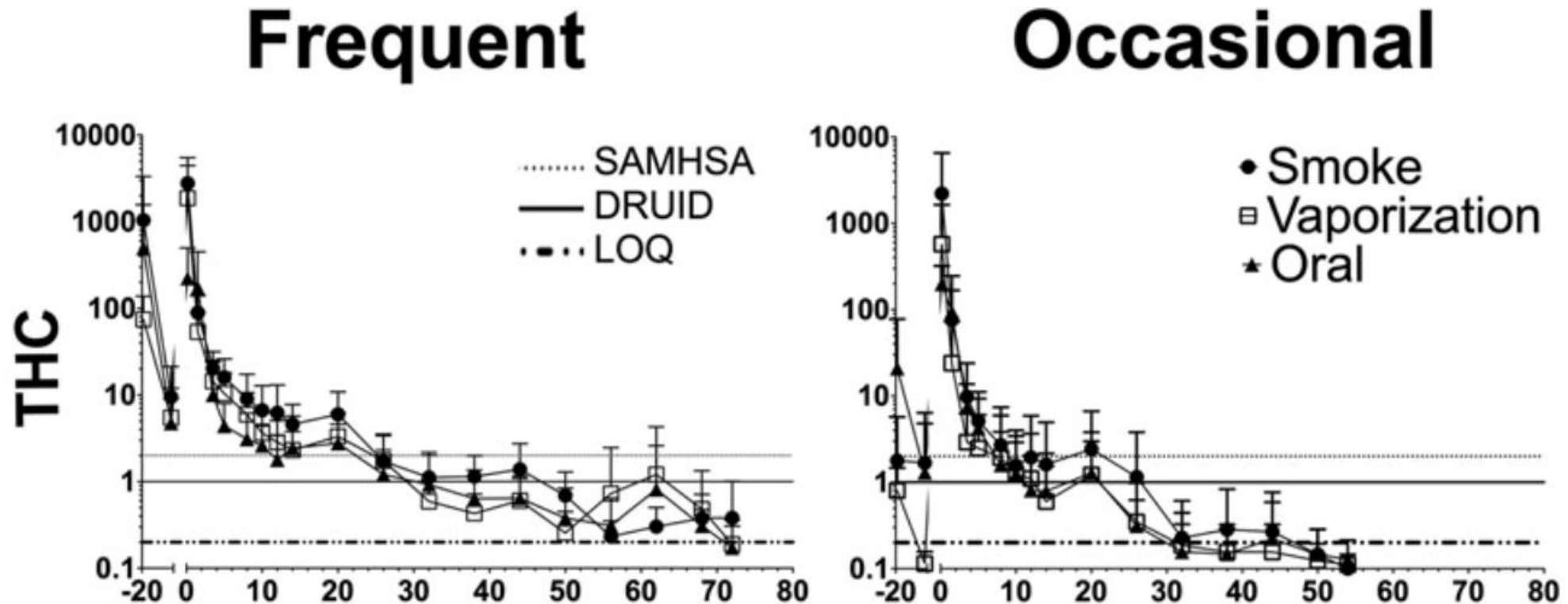
Some cited advantages of oral fluid testing over urine drug testing:

- less expensive
- less intrusive
- less subject to adulteration (cheating)
- can be collected at work or site of transportation incident, with rapid onsite initial test results yielded by immunoassay

“Initial test” cut-off for positive: ≥ 4 ng/ml;

Confirmatory test cut-off: ≥ 2 ng/ml (LC/MS-MS)

As acknowledged by DOT, the “window of detection” for a positive oral fluid THC test may extend to 24 hours after last usage (or longer)



Swortwood et al Drug Test. Analysis 2017, 9, 905–915

An Oral Fluid test for THC may remain positive long after the interval of acute psychoactive effects and potential acute drug-induced impairment

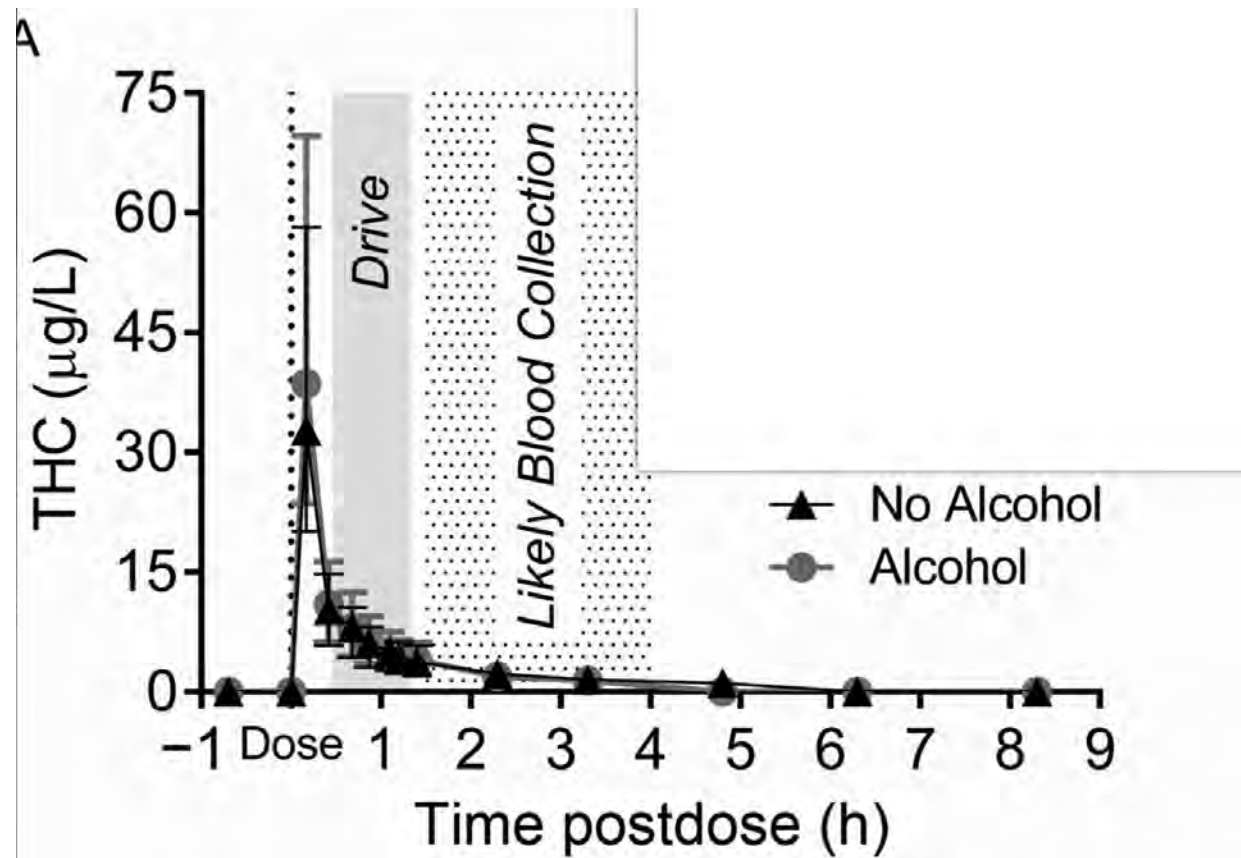
THC in oral fluid reflects topical contamination of the oral mucosa after inhaling THC, or ingesting an edible that at least partially dissolves in the oral cavity

An oral fluid test for THC is unlikely to detect THC that is ingested in a capsule or other form that does not dissolve or deposit in the oral cavity.

(Milman G et al, Anal Bioanal Chem 2011; 401:599-607)

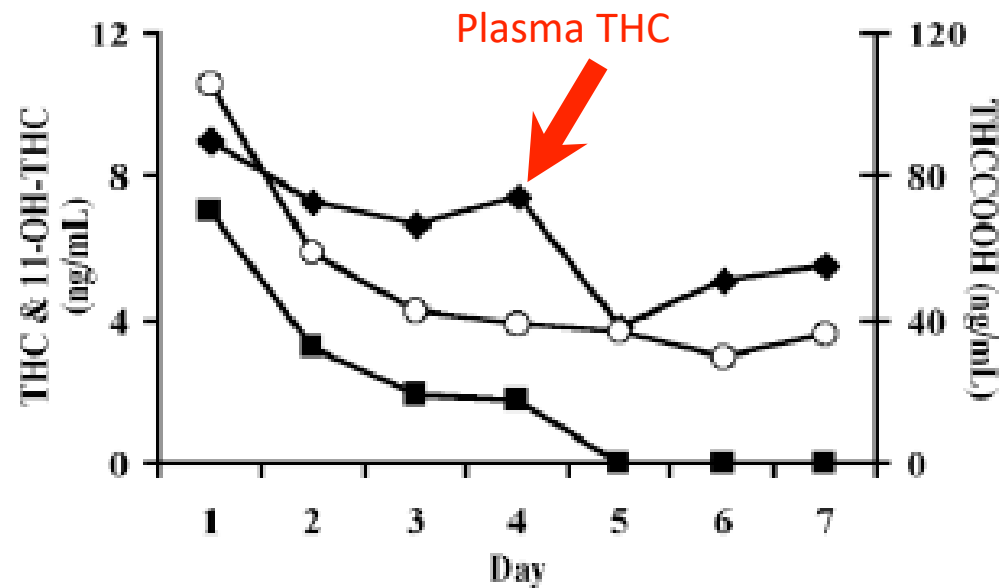
THC in whole blood is preferred matrix for post-incident testing in forensic settings (e.g. transportation crashes) but is seldom used in the workplace.

There is typically a delay in collection of post-crash blood. As shown below (Hartman et al, 2016) in **occasional users**, whole blood THC may decline by > 90% by 1.4 hours post- inhalation



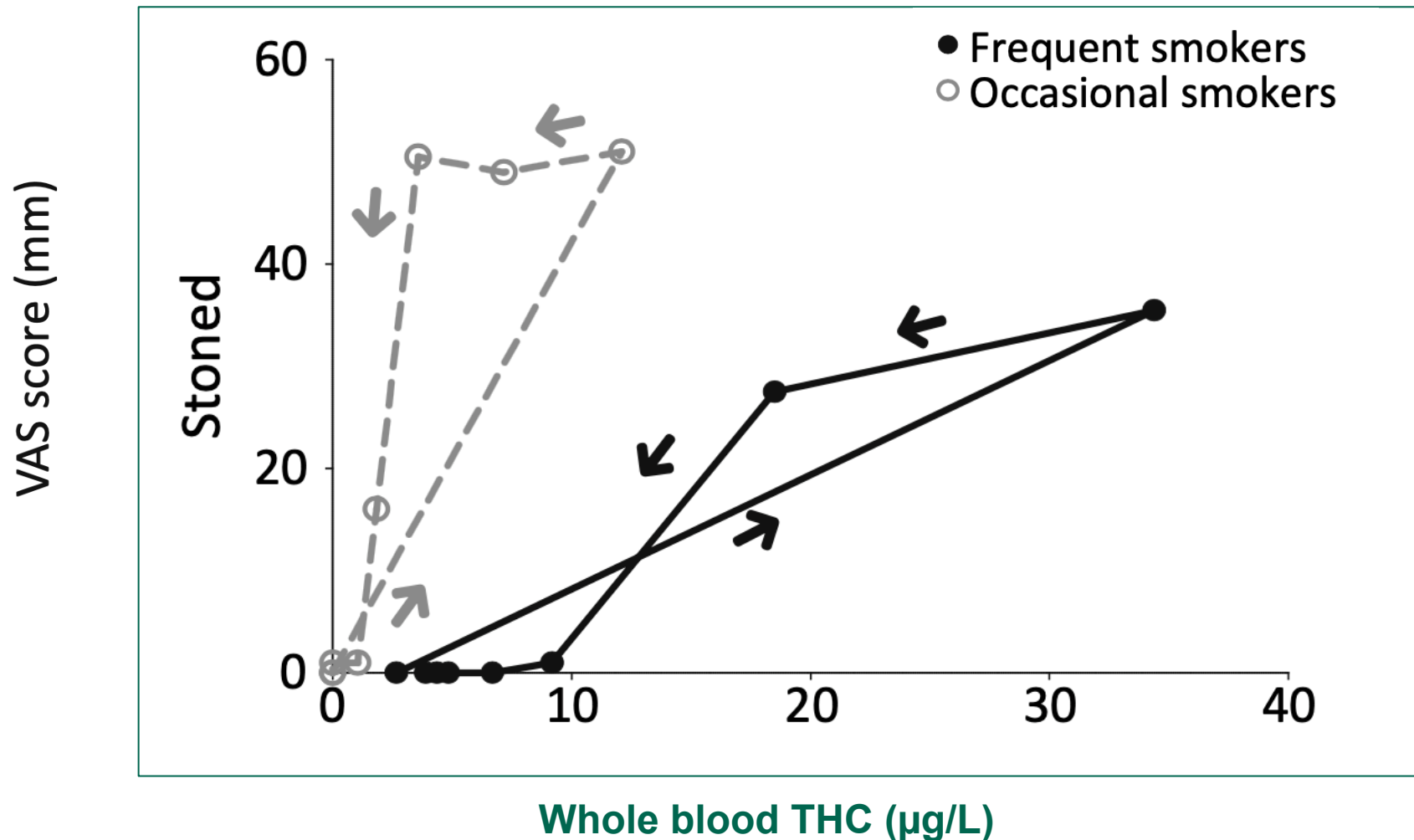
Clin Chem 62:367-377;
2016

In chronic daily users, tolerance to the effects of THC and its prolonged presence in blood may limit the predictive value of THC levels for detection of impairment or recent use



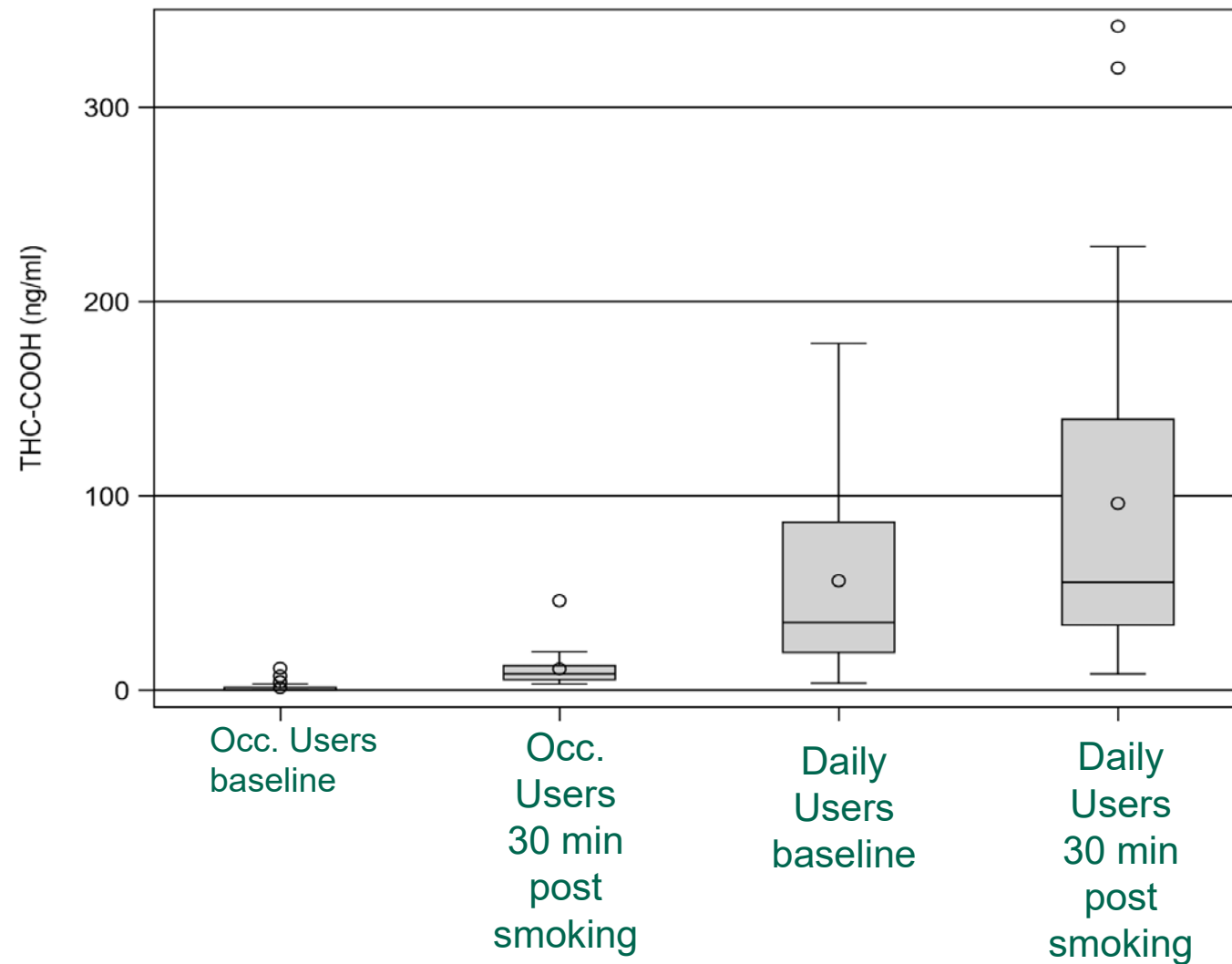
days of supervised abstinence

Counterclockwise hysteresis: Subjective cannabis effects and blood THC after acute smoking in occasional and frequent users [Desrosiers et al, J Anal Toxicol 2015; 39:251-261]



After controlled smoking of joint with 6.8% THC, (54 mg THC)

Whole Blood THC-COOH is a biomarker that distinguishes chronic frequent (daily) users from occasional users. Kosnett MJ et al. J Med Toxicol 19:126; 2023



(n = 92 users; 184 observations)

Blood cannabinoid molar metabolite ratios are superior to blood THC as an indicator of recent cannabis smoking

Michael J. Kosnett^{a,b} , Ming Ma^c , Gregory Dooley^d , George Sam Wang^e , Kyle Friedman^f , Timothy Brown^g , Thomas K. Henthorn^h  and Ashley Brooks-Russell^c 

CLINICAL TOXICOLOGY

2023, VOL. 61, NO. 5, 355–362

<https://doi.org/10.1080/15563650.2023.2214697>

MMR_1

$$\frac{THC /_{314.5}}{THC-COOH /_{344.5}}$$

MMR_2

$$\frac{THC /_{314.5} + THC-OH /_{330.5}}{THC-COOH /_{344.5}}$$

Blood cannabinoids were measured at **abstinent baseline, and 30 minutes after the start of a 15-minute interval of ad-libitum smoking cannabis** in 24 occasional and 32 daily cannabis smokers

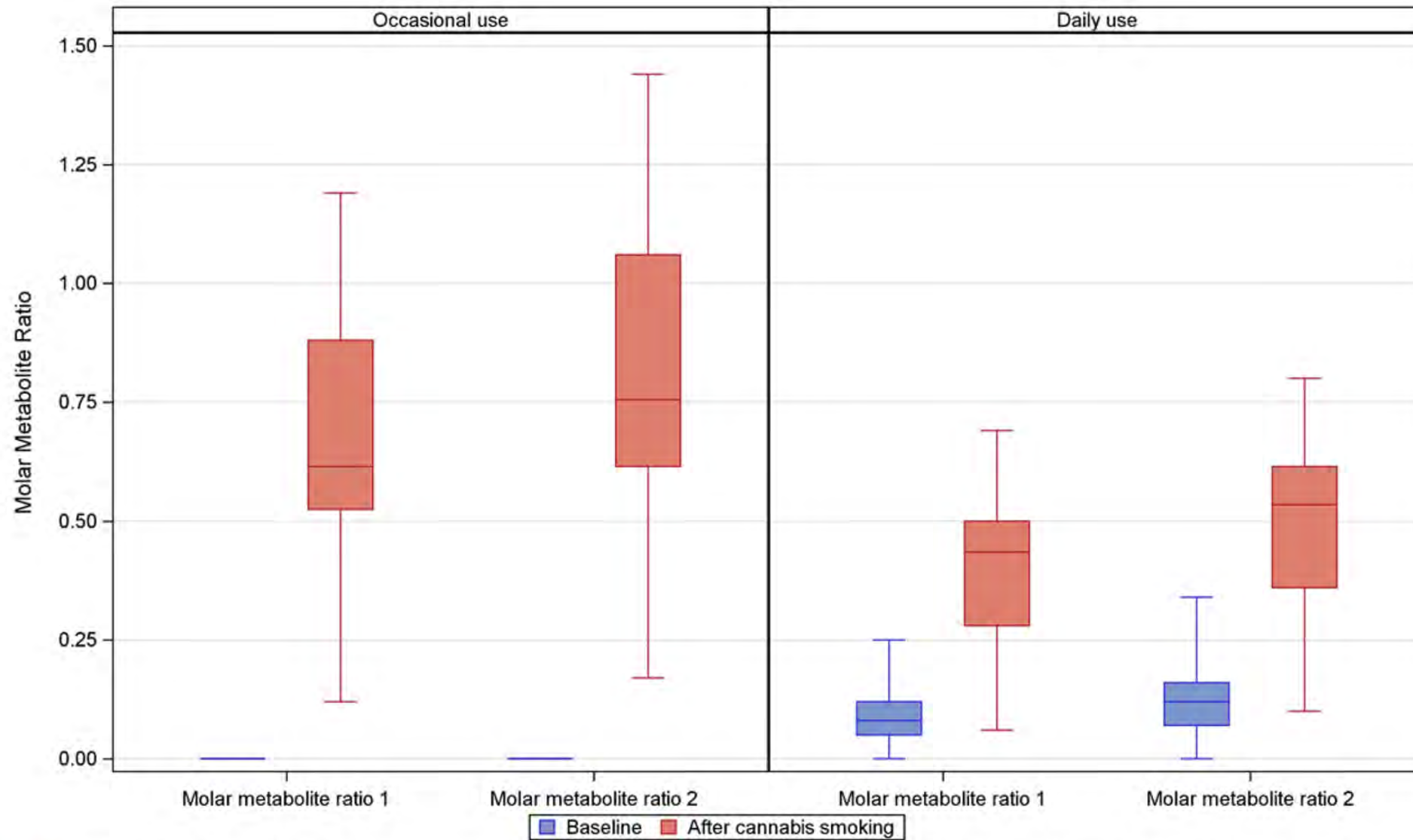


Figure 1. Molar metabolite ratio distributions among occasional and daily cannabis users. Boxes represent interquartile range (25–75th percentile); Horizontal line represents median. Whiskers are drawn to the minimal and maximal values.

Whole Blood Cannabinoid Molar Metabolite Ratios may inform on cannabis use just before or at work, when psychoactive drug effect might be present.

<i>Optimal Cut-points for prediction of recent smoking</i>	SENSITIVITY	SPECIFICITY	ACCURACY
$\text{MMR}_1 \geq 0.18$	93 %	98%	96%
$\text{MMR}_2 \geq 0.27$	91%	98%	95%
$\text{THC} \geq 5.3 \text{ ng/ml}$	73%	88%	80%

n = 112 observations, baseline and 30 min post-smoking, in 24 occasional cannabis smokers and 32 daily cannabis smokers

Summary of key points for workplace drug testing for cannabis

Urine tests (for THC-COOH) may remain positive for days to weeks and are suited to workplaces which require total abstinence from cannabis use, even outside of work hours. Positive tests are not reliable indicators of the potential presence of acute psychoactive effects.

Oral fluid tests for THC may offer logistical and cost advantages compared to urine tests but also have a window of detection (up to 24 hours or longer) that exceeds the duration of acute THC effects.

Whole blood THC correlates better than urine or oral fluid with acute psychoactive effects, including *possible* decrements in performance, particularly in occasional users.

THC-COOH is a biomarker of chronic frequent cannabis use (over interval of weeks to month), and high values may be associated with drug tolerance.

Cannabinoid molar metabolite ratios are superior to blood THC as an indicator of recent cannabis smoking and may have role in forensic or post-incident investigations.



WELCOME to the
*Cannabis in the Workplace: An ECHO on
Health, Safety, and Management*

Session 4, Assessing Impairment in the Workplace, July 23, 2025





Cannabis Impairment and Assessment of Fitness for Work

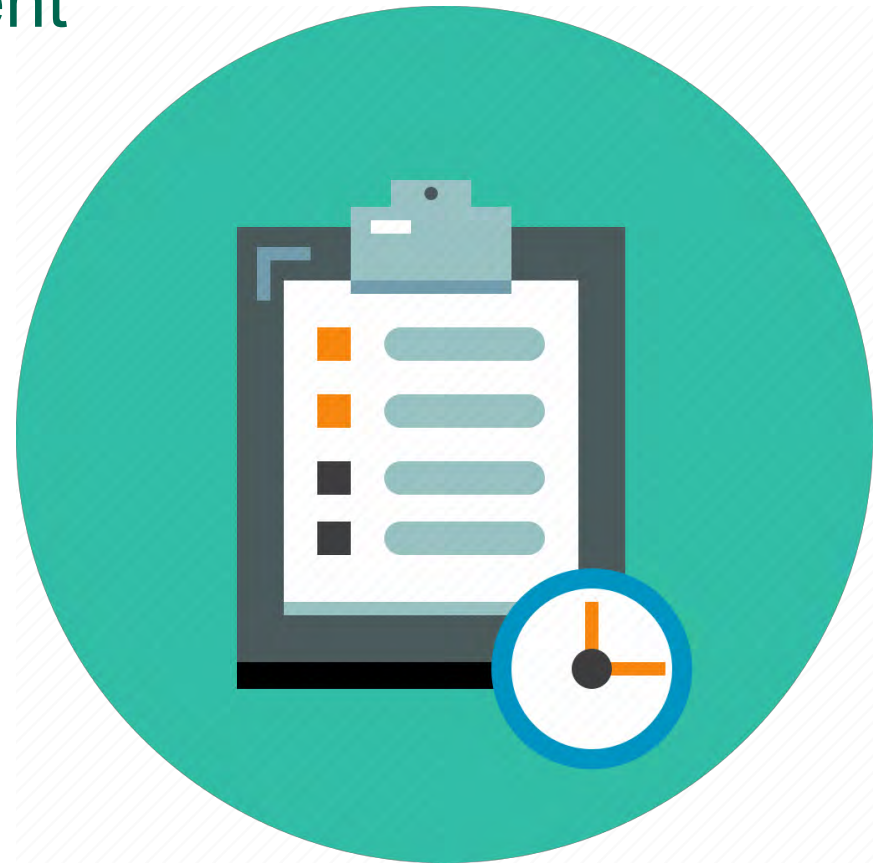
Robert K. McLellan, MD, MPH, FACOEM

Claire Bryant, MPH, CHES

July 23rd, 2025

Objectives

- Define fitness for work and impairment
- Explain performance-initiated exams
 - Role of the employer
 - Role of the employee
 - Role of the examiner
- Explore approaches to assessing cannabis impairment



Who is fit to work according to the ADA?

- A **qualified** individual who is **able to safely** perform the **essential functions** of a specific job (with or without reasonable accommodations.)
- “Fitness for work” is a broader concept than “impairment.”



Questions Common to Assessing Fitness for a Job

- What is the individual's **work capacity**?
- **Can** the person **do** the job **safely and professionally**, without an imminent, direct threat to self or others



Impairment

is the **inability to *function* normally or safely associated with cognitive, behavioral and/or physiological disturbance** as a result of a number of factors—from chemical substances, such as alcohol, opioids, cannabis, pharmaceuticals to physical factors like fatigue or illness, as well as mental distress and social factors like stress



Impairment in the Workplace

- Impairment is not a well-defined concept in the workplace
- Not routinely tracked as a contributor of near miss or injury
- Factors frequently associated with safety concerns include fatigue, sleepiness, burnout, night shifts, rotating shifts, mental distress, extreme heat and cold, alcohol use, and workplace exposure to hazardous substances



52%
of employers
**believe that
impairment**
decreases the safety
of their workforce*

Additional Considerations & Limitations

- The presence of contributing factors does not equal impairment
- There is no universally accepted behavioral or physiological test for cannabis impairment
- Impairment exists on a spectrum and can occur for many reasons
- Addressing the root cause of fitness for work concerns and impairment is worthwhile





Impairment Assessment On-The-Job

- Performance and behavior evaluation
 - Behavioral observation & Reasonable cause training
 - Self-report
- Proxy measures
 - Impairment detection technology
 - Presence of contributing factors

Common Signs and Symptoms of Impairment

Physical

- Rapid shift in physical appearance
- Tremors
- Unsteady gait or lack of coordination
- Delayed reaction time
- Odor of alcohol or drugs
- Direct observations of substance use
- Lack of energy or chronic weariness
- Loss of consciousness

Cognitive

- Inappropriate verbal/emotional responses
- Irritability
- Memory Loss
- Lack of concentration/confusion/forgetfulness
- Isolation
- Inappropriate or abnormal behavior
- Distraction


Performance

- Frequently calling out sick
- Errors in judgement
- Unexplained tardiness/early departure/extended breaks
- Testing positive on a drug screen
- Testing positive on an impairment detection test
- Deterioration in performance or quality of work
- Decreased concentration and vigilance
- Loss of ability to do skilled tasks

Impairment Detection Technology

- Technology with the *potential* to detect indicators of impairment from multiple contributing factors
- Example indicators
 - Cognitive: reaction time, PVT
 - Physical: head movement, pupillary light reflex, speech
 - Task demonstration: driving simulator, SFST
- Examples: Druid, AlertMeter, PVT Workfit, Optovera, Gaize
- Cannabis recent use breath tests also on the market

Potential Benefits	Potential Barriers
Objective framework	Validation!!!
Privacy	Initial Cost
Broad detection	Implementation time
Prevention	Acceptance
Cost savings	Legal implications

A faint, light gray silhouette of a person in mid-jump, arms and legs spread wide, is positioned in the upper center of the image. Below the person, a gap exists between two dark gray, jagged cliff edges. The background is a light blue gradient. The text is centered in the middle of the image, overlaid on the jump.

We should not jump to
conclusions about WHY
someone is exhibiting signs and
symptoms or triggering a
positive result

Role of the Employer Addressing Impairment at Work

- Have a **policy and procedure** for both substance use and impairment-triggered mandated medical exams
- **Inform and train** all employees of the policies and their responsibilities
- **Periodically train** supervisors about their **role** and the **process** for initiating **mandated medical evaluations**



Reasonable Concerns and Prohibited Behaviors to Consider Referral for a ***Mandated Medical FFD Exam***

- **Behavioral observations** of impairment, including unusual absenteeism
- **Suspected of working under the influence** of a substance. If using a prescribed/OTC med or medical/legal recreational marijuana, **still must be able to meet job expectations**
- **Unlawful acts** related to controlled substances, inhalants, or illicit drugs on or off duty
- Legal intoxicant **policy decisions**
 - Alcohol before (to avoid ETOH level > 0.02) or during work hours
 - Recreational/***medical*** marijuana before (8 hrs – Canada recommends 24 hrs) or during work hours
 - NB: several prescribed and OTC medicines may impair performance
- **Drug diversion**

Behavioral Observation: Currently the Best Tool for Assessing Suspected Impairment from Cannabis at Work

- Is Not ...

- a license to practice medicine!
- a system for tattling!

- Is ...

- a key component of any FFD program
- a broad, just-in-time system of detection superior to relying on drug testing
- An opportunity to protect someone's life, safety, well-being and even save someone's life

Voluntary, Self-Report

- Encourage **self-referral** diagnosis and treatment if no immediate safety or intolerable performance, or if they agree that they need time off to address a potential medical problem.
- A recovery-friendly workplace culture may facilitate this option for employees struggling with recovery.
- As an employer, avoid “diagnosing” or “therapeutic” involvement
- Direct to resources
- **Policy decision** - Inform that any aspect of the FFD policy *may* be applied, including FFD evaluation, RTW contracting, and report to a licensing board or justice agent

Purpose of Mandated Performance Initiated Exams*

- Is there a medical, psychological problem or substance use that explains an employee's inappropriate behavior or impaired (especially change in) job performance?
 - Is it treatable?
 - Would accommodations “fix” the work problem?
- Is there a violation of the drug and alcohol policy
- MANY MEDICAL/PSYCHOLOGICAL/MEDICINES and SOCIAL CONDITIONS BESIDES CANNABIS OR OTHER SUBSTANCE USE IMPAIR PERFORMANCE

* Commonly known as Fitness for Duty (FFD) exams by occupational medicine providers

Employee Rights and Responsibilities

- Rights
 - Legal and contractual protections
- Responsibilities
 - Know and abide by job expectations
 - Know and abide by laws and company work procedures and policies for use of prescribed, recreational, and illicit substances
 - Report knowledge or reasonable concern about another employee engaging in prohibited conduct to appropriate supervisor



Cautions and Pitfalls

- Absent or unclear policies and procedures
- Failure to inform and train
- Tattling
- “Medicalizing” a performance problem in performance in lieu of good management/supervision
- Inconsistent application of policy
- Assuming a “diagnosis” and/or engaging in a “therapeutic” relationship
- Failure to choose the right clinician or inform the clinician of the SPECIFIC concerns



Referring an Employee for an FFD Exam

- How do you choose the right provider?
- What does the provider need to do their job?
- What communication should you expect from the FFD exam?



Choosing a Qualified Provider

- Few health care providers have training or experience performing FFD exams
- Consider

- What specialty is needed?

Some professions and trades have supportive programs for self-referral or mandatory fitness exams, e.g. health, legal, and public safety professions or unions

- Occupational Medicine – almost all OM physicians have extensive FFD experience)
 - Physiatry (depends on their practice focus)
 - Some psychiatrists and behavioral health professionals (especially forensic psychiatrists/psychologists, EAP professionals, SUD providers)
 - Others (clinicians from many other specialties *may* have had experience)

Identify and talk to specialists BEFORE you need them

- Timeliness – evaluation and report

Clinicians performing a mandated FFD evaluation CANNOT serve as a “treating” provider. They work as an agent of the employer. They can (and ethically should) facilitate referral for further evaluation and care if medically appropriate.

What Does the Provider Need?

- Notification of the **provider** about the specific concerning observations
- Referral specifically for a mandated FFD exam (vs. clinical evaluation for treatment)
- Escort to the appointment and supervision while waiting if an acute behavioral concern
- Documentation of specific concerns
- Functional job description
- Contact person for reporting results
- Employee consent to proceed

What Goes On During a Medical FFD Exam?



Review of supervisor concerns and behavioral observations with employee



Interview



Physical examination



Decision regarding drug testing and which panel of drugs and body fluid/tissue to test



Drug testing



Also possible on a case-by-case basis

Review of medical records

Conversations with treating providers, supervisors, HR

Referral for additional testing or other specialist evaluations

Communication From Clinician After FFD Exam

- Fit for Duty (no medical, mental, substance use issue that explains behavior)
- Fit for Duty with accommodations
- OOW pending medical treatment (estimate of time frame)
- OOW, pending further medical evaluation (estimate of time frame)
- Refusal to cooperate with evaluation
- Drug test results (positive/negative/adulterated/refused)
- **NEVER ANY MEDICAL DETAILS (Protected Health Information), WITHOUT CONSENT (or rare exception per Public Health Provisions of HIPAA Privacy Rule)**

Take Home Points - 1

- Meaning of “Fitness-for-Work” and “Impairment”
- Impairment from cannabis can last much longer than “high”
- No test (drug, field, or technological) broadly available sufficiently *sensitive* and *specific* to cannabis impairment
- Behavioral observation currently the best approach in the workplace to identify possible impairment
- Need policies and procedures for on-the-job behavioral observations and referral for performance-initiated medical (FFD) exams

Take Home Points - 2

- Communicate policies and individual responsibilities clearly to all employees.
- Provide regular training for supervisors on behavioral observation and their specific duties.
- Foster a workplace culture that encourages voluntary self-referral for assessment and treatment.
- Refrain from treating management issues as medical problems.
- Engage appropriate healthcare professionals for mandated medical examinations.

Resources

- Occupational Health Guides: Fitness for Duty. to be released soon at [Practice Resources | ACOEM](#)
- When Fitness for Duty Examinations are allowed. Available at [When Fitness-for-Duty Examinations Are Allowed \(shrm.org\)](#)
- CSA Z1008:21, Management of Impairment in the Workplace. Available at [CSAgroup.org](#).
- Scope of Impairment and Workplace Safety white paper. Available at [nsc.org](#).
- Impairment Detection Technology and Workplace Safety white paper. Available at [nsc.org](#).
- Confidentiality Exceptions
 - Available at <https://www.hhs.gov/hipaa/for-professionals/faq/301/does-the-hipaa-public-health-provision-permit-health-care-providers-to-disclose-information-from-pre-employment-physicals/index.html>
- Unreliability of drug or field testing as indicators of intoxication/impairment
 - [Field Sobriety Tests and THC Levels Unreliable Indicators of Marijuana Intoxication | National Institute of Justice](#)
 - [Marijuana Impairment FAQ - Forensic Resources](#)
 - [Marijuana impairment and drug testing – NDASA](#)
 - Marcotte et al. Umlauf A, Grelotti DJ, Sones EG, Mastropietro KF, Suhandynata RT, Huestis MA, Grant I, Fitzgerald RL. Evaluation of Field Sobriety Tests for Identifying Drivers Under the Influence of Cannabis: A Randomized Clinical Trial. JAMA Psychiatry. 2023 Sep 1;80(9):914-923.



WELCOME to the *Cannabis in the Workplace: An ECHO on Health, Safety, and Management*

*Session 5, Intervention, management of leave, treatment, re-entry into
the workplace, August 6, 2025*





Managing Cannabis Concerns in the Workplace

Matthew McKenney, JobForward, CEO

Recognizing and Intervening in the Workplace

Recognize Signs of Impairment



- Slowed reaction times
- Lack of coordination
- Drowsiness or distractibility
- Absenteeism or tardiness

Intervene Effectively



- Act promptly and discretely
- Rely on objective observations
- Use empathy, not judgment
- Document observations and concerns

Assessment and Referral

Utilize EAP



- Supervisory and self-referrals
- Confidentiality protections
- Resources and treatment options

Obtain Evaluation



- Referral to a professional
- Independent medical exams
- Return-to-work recommendations

Managing Leave for Treatment

Legal Protections

Understand rights under the Family and Medical Leave Act and Americans with Disabilities Act

- Applicable state or local laws
- Consult with legal counsel



Communicate Effectively

Discuss expectations including leave duration

Ensure compliance with policies: FMLA, ADA, and confidentiality

Maintain regular contact as appropriate

Treatment and Recovery Support

Understand Treatment Programs



- Outpatient treatment programs
- Intensive outpatient programs (IOPs) for structured support while maintaining work
- Cannabis-specific education and relapse prevention groups

Support Employee Recovery



- Peer recovery coaching and support networks
- Provide reasonable accommodations
- Be flexible with schedules
- Maintain a stigma-free environment

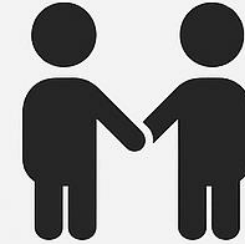
Re-entry Planning

Develop an Agreement



- Outline job duties and expectations
- Clarify work schedule and conditions
- Specify support and follow-up

Offer Peer Support



- Connect with a peer support program
- Refer employees to counseling or other structured support services

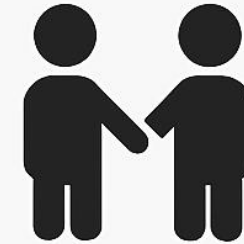
Monitoring and Follow-Up

Evaluate Performance



- Evaluate post-treatment performance and conduct regularly
- Provide feedback and support for improvement

Offer Peer Support



- Address concerns and remove potential triggers
- Refer to employee assistance programs as needed

Training for Leaders

Legal and Company Policies



- Understand legal requirements and protections
- Know the organization's cannabis policy

Offer Peer Support



- Use empathy and documentation
- Offer support and guidance

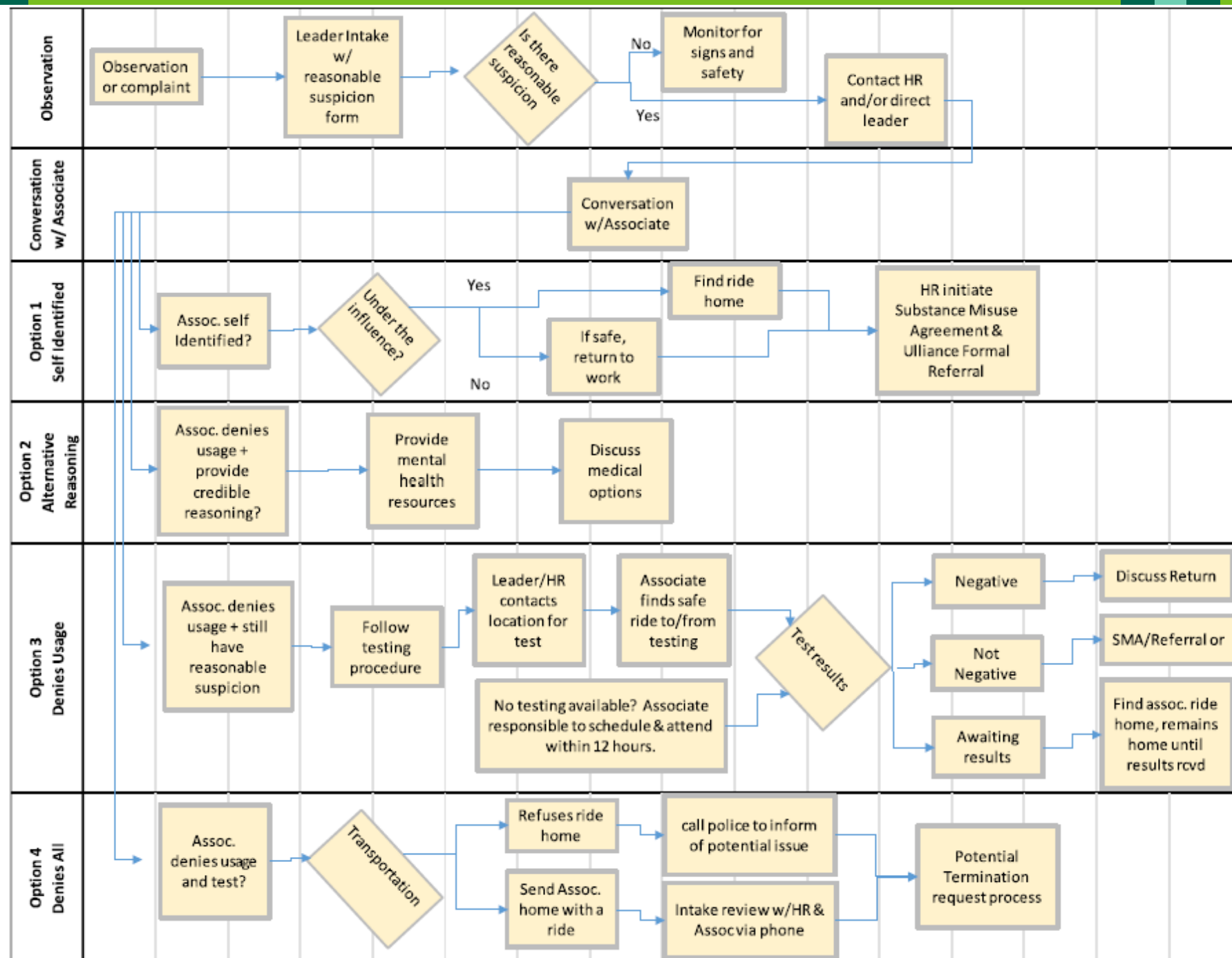
Workplace Policy Updates



- Align policies with recovery-ready principles
- Include a process for leave and return-to-work procedures
- Provide peer support and treatment resources

What does a process look like?

- Best practice is to include an HR resource after initial observation and leader intake.
- Employee safety on and off site, mental, physical, and emotional health and well being should be the primary concern.
- Ideally you create a company culture that encourages the individual to self-identify allowing you to help them find resources.



Case Scenario: Re-entry Success



- Employee completes cannabis treatment program
- Supervisor maintains contact during leave
- Return-to-work agreement outlines duties, schedule, and support
- Employee connects with peer support program

Resources and Support

National Recovery Friendly Workplace Institute
<https://rfwinstitute.org/>

Recovery Friendly Workplace (NH)
<https://www.recoveryfriendlyworkplace.com/>

Vermont Association for Mental Health & Addiction Recovery (RFW)
<https://www.vamhar.org/rfw>

Recovery Friendly Workplace Maine
<https://rfwmaine.org/>

Substance Abuse and Mental Health Services Administration Helplines (988 Crisis Lifeline)
<https://www.samhsa.gov/find-help/helplines>

Call 211 for the Doorway
<https://www.thedoorway.nh.gov/>



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*Cannabis in the Workplace: An ECHO on
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Session 6, The Legal and Regulatory Landscape, August 20, 2025



The background features abstract, overlapping green geometric shapes in various shades, creating a modern and dynamic visual effect. The shapes are primarily triangular and polygonal, arranged in a way that suggests movement and depth.

Cannabis in the Workplace: The Legal and Regulatory Landscape

Presented by:

Elizabeth A. Bailey, JD

Charla Bizios Stevens, JD

August 20, 2025

Today's Agenda

- ▶ Provide an overview of the laws impacting cannabis use
- ▶ Discuss the implications for employers
- ▶ Address the practical aspects of managing employee cannabis use
- ▶ Turn an eye toward the future



The Legal Landscape: States

- ▶ 40 states have approved medical use
- ▶ 24 of those and Washington DC have approved recreational use
- ▶ Few provide job protection for off-duty use
- ▶ Some of the more recent laws provide protection for therapeutic use but not recreational use
- ▶ Some states such as New Hampshire have decriminalized but not legalized for recreational use

The Legal Landscape: Federal Law

Controlled Substances Act of 1970

- ▶ Marijuana is considered a Schedule I drug like heroin and cocaine
- ▶ Doctors may not prescribe marijuana for medicinal use
- ▶ Individuals who use marijuana will not pass federal background checks or Department of Transportation licensing tests

Schedule 1 Drugs

Schedule I drugs are those that have the following characteristic according to the United States Drug Enforcement Agency (DEA):

- ▶ The drug or other substance has a high potential for abuse.
- ▶ The drug or other substance has no currently accepted medical treatment use in the U.S.
- ▶ It has a lack of accepted safety for use under medical supervision.
- ▶ According to federal law, no prescriptions may be written for Schedule I substances, and they are not readily available for clinical use.

The Current Legal Landscape: Personal Use

► RSA 318-B:2-c Personal Possession of Marijuana

- Personal Use amount of a regulated marijuana-infused product is defined as one or more products comprised of marijuana, marijuana extracts, or resins, or other ingredients intended for use or consumption and contains no more than 300 milligrams of THC; includes edibles, ointments, or tinctures
- Any person who knowingly possesses $\frac{3}{4}$ of an ounce or less of marijuana, including adulterants or dilutants, shall be guilty of a violation.
- Any person 21 years of age or older possessing a personal use amount of marijuana shall be guilty of a violation
- Any person 18 years of age or older and under 21 years of age shall be guilty of a misdemeanor
- Any person under the age of 18 who is convicted of violating the law shall forfeit the marijuana and be subject to a delinquency petition

The Current Legal Landscape: Medical Use

- ▶ RSA 126-X Use of Cannabis for Therapeutic Purposes
 - ▶ A qualifying patient shall not be subject to arrest for therapeutic use of cannabis if he or she possesses an amount of cannabis that does not exceed: two ounces of usable cannabis and any amount of unused cannabis.
 - ▶ A designated caregiver shall not be subject to arrest if the caregiver possesses two ounces of usable cannabis, or the total amount allowable for the number of qualifying patients for whom the caregiver provides care, and any amount of unused cannabis.

The Current Legal Landscape: Medical Use

- ▶ A qualifying patient is presumed to be lawfully engaged in therapeutic use if the patient possesses a valid registry identification card and possesses an amount of cannabis that does not exceed the allowable amounts.
- ▶ A valid registry identification from another state or US possession or Canada that allows possession for therapeutic purposes to a visitor to NH is given the same effect as a valid registry identification issued in this state.
- ▶ A visiting qualifying patient shall not purchase cannabis at an alternative treatment center more than 3 times in a 12-month period, unless the visiting qualifying patient produces a statement from his or her health care provider stating that the visiting qualifying patient has a qualifying medical condition as defined in RSA 126-X:1.

The Current Legal Landscape: Medical Use

- ▶ Qualifying Medical Conditions
 - ▶ Extensive lists at RSA:126-X:1 IX (a) and (b) ranging from cancer and glaucoma to chronic pain and recent additions such as moderate or severe post-traumatic stress disorder

The Current Legal Landscape: Medical Use

- ▶ RSA 126-X:3 Prohibition and Limitations on Therapeutic Use
 - ▶ Qualifying patient may use cannabis on privately-owned property only with written permission of owner or tenant in possession; this includes property of an employer
 - ▶ Individuals are still subject to arrest and prosecution for
 - ▶ Operating a vehicle, boat, or other vehicle powered other than by muscular power
 - ▶ Operating or using heavy machinery or dangerous instruments
 - ▶ Use for other than therapeutic purposes
 - ▶ Public use

The Current Legal Landscape: Medical Use

- ▶ RSA 126-X:3 Prohibition and Limitations on Therapeutic Use
 - ▶ Nothing in this chapter shall require
 - ▶ Any health insurance provider to reimburse for the use of cannabis
 - ▶ Any individual in possession or use of property to allow a guest, client, or customer to use cannabis on the property
 - ▶ Any accommodation of use on the premises of employment or in a residential care facility, nursing home, hospital, hospice house, or jail
 - ▶ This chapter shall in no way limit an employer's ability to discipline an employee for ingesting cannabis in the workplace or for working while under the influence of cannabis.

Other States

▶ Georgia

- Marijuana is illegal in Georgia for medical and recreational purposes and is listed as a controlled substance in the [Georgia Controlled Substances Act](#). Possession of marijuana can attract a punishment of up to 40 years of incarceration and a fine of up to \$1,000,000.

▶ Pennsylvania

- **In Pennsylvania, marijuana is only legal for qualified patients with the state's medical marijuana cards.** Using marijuana without a prescription in Pennsylvania is illegal.

▶ Texas

- Marijuana is not legal in Texas. However, CBD oil, an extract of the marijuana plant, is legal for medical purposes in the state.

Considerations for Employers

- ▶ Substance use policies and drug screening
- ▶ Conflicts with federal law and impact on federal contracts
- ▶ Managing risk and safety concerns
- ▶ Workforce maintenance
- ▶ ADA Compliance
- ▶ Employee travel to states where recreational use is legal
- ▶ Company culture



Disability Accommodations

- ▶ Scott Paine v. Ride-Away, Inc.: NH Supreme Court 2022
 - ▶ Employment discrimination claim filed under RSA 354-A
 - ▶ Plaintiff sought an accommodation in the form of an exemption from the **company's drug testing policy**
 - ▶ Had been prescribed medical marijuana for PTSD
 - ▶ Accommodation was refused and he was terminated from employment
 - ▶ He was not requesting to use or possess cannabis on premises or during work hours
 - ▶ Trial court erred in ruling that use of therapeutic marijuana cannot be a reasonable accommodation
 - ▶ Need to go through the analysis of disability and undue hardship

Drug Testing and Substance Use

- ▶ Consider need for and implementation of drug testing protocols. They should be fair and clear.
- ▶ Option of treating marijuana like any other prescription medication. No requirement to allow onsite use or to allow individuals to be under the influence.
- ▶ Consider whether policies will address recreational use while on the job out of state.
- ▶ Make sure your policies are in compliance with any federal requirements you have such as in federal contracts or with commercial DOT drivers.
- ▶ Address accommodation as well as leaves of absence for addiction treatment.

Risk Management

- ▶ **Medicinal drug use of any kind should be viewed in light of the individual's job duties and risks of harm to self or others.**
- ▶ Be mindful of other laws implicated and violations associated with use (driving, operating machinery, interactions with clients and other employees).
- ▶ Be fair and even-handed in enforcing policies.
- ▶ Keep information about medicinal use of marijuana as confidential as you would any other medical information.



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WELCOME to the
*Cannabis in the Workplace: An ECHO on
Health, Safety, and Management*

Session 7, Development of Workplace Policies, August 27, 2025



Cannabis in the Workplace -
Development of Workplace Policies
An ECHO on Health, Safety and
Management

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August 27, 2025

Today's Agenda

Discuss Policy Analysis Related to Workplace Cannabis

- Is a Policy Legally Required Under State and/or Federal Laws?
- **What are the Employer's Policy Objectives?**

Provide an Overview of Possible Policies and Policy Considerations

- Drug-Free Workplace Policy
- Drug Testing Policy
- ADA Reasonable Accommodations Policy
- Leave Policies
- Disciplinary Policies/Return to Work Agreements
- Interplay with Contractual Obligations
- Considerations for Multi-State or Global Employers

Is a Policy Legally Required?

An Employer may be subject to State and/or Federal laws based on:

- **Employer's number of employees**
- **Employer's physical locations**
- Where Employer is registered to do business
- **State and/or Federal regulation of Employer's industry/employee positions (safety-sensitive positions/transportation)**
- Contractual obligations

What are the Employer's Policy Objectives?

Even if State/Federal law does not require a written policy, an Employer may still want a policy to:

- **Confirm Employer's legal compliance**
- **Communicate Employer's workplace expectations**
- Notify Employees of their rights and obligations
- Ensure Employees are treated fairly
- Prevent substance use among Employees

Possible Policies and Policy Considerations - Drug-Free Workplace Policy

Employers subject to the federal Drug-Free Workplace Act of 1988 must implement a Drug-Free Workplace Program. Components of a Drug-Free Workplace Program include:

- A written Policy
- Employee education
- Supervisor training
- Drug testing
- Employee Assistance Programs

Possible Policies and Policy Considerations - Drug-Free Workplace Policy

Other Employers who are not subject to the Drug-Free Workplace Act of 1988 may choose to have a written Drug-Free Workplace Policy because a written Policy:

- **May be required by State/other Federal law or Employer's insurance carriers;**
- **Provides a record of Employer's efforts to have a drug-free workplace**
- May protect Employer from certain Employee claims
- Is easier to explain to Employees
- Helps Employers and Employees focus on important Policy information

Possible Policies and Policy Considerations - Drug-Free Workplace Policy

The Substance Abuse and Mental Health Services Administration (SAMHSA) recommends that the following basic elements are addressed in an effective Drug-Free Workplace Policy:

- Statement of Purpose
- Implementation Approaches
- Definitions, Expectations and Prohibitions
- Dissemination Strategies
- Benefits and Assurances
- Consequences and Appeals

Possible Policies and Policy Considerations - Drug-Free Workplace Policy

The Statement of Purpose **may contain: Employer's goals for Policy, definition of “substance use” and a description of how the Policy was developed (in collaboration with Employees or Unions).**

SAMHSA provides examples of language for Statements of Purpose.

Possible Policies and Policy Considerations - Drug-Free Workplace Policy

Policy Goals may be based on:

- Laws/regulations applicable to Employer
- **Employer's Policy objectives, such as reducing workplace accidents, injuries, absenteeism**
- Prevention/treating workplace drug use/misuse

Possible Policies and Policy Considerations - Drug-Free Workplace Policy

The Policy's Definitions, Expectations and Prohibitions may address:

- Definition of substance use
- Expected Employee behaviors
- Policy coverage
- Application of Policy - When and where does it apply?
- Implementation and enforcement
- Testing and scope of any testing
- Interplay of Policy with any applicable collective bargaining agreement (CBA)

Possible Policies and Policy Considerations - Drug-Free Workplace Policy

The Policy may also provide Benefits and Assurances to Employees concerning how Employer will help:

- Employees with their Policy compliance
- **Protect Employees' confidentiality**
- Employees in finding assistance for drug-related challenges
- Employees in treatment/recovery
- Ensure the Policy is fairly and consistently implemented for all Employees

Possible Policies and Policy Considerations - Drug-Free Workplace Policy

Consequences and Appeals in the Policy may address:

- Possible consequences if an Employee violates the Policy
- Procedures for determining if an Employee violated the Policy
- Any appeal process for a Policy violation finding

Possible Policies and Policy Considerations - Drug Testing Policy

Some preliminary questions-

- Does the Employer *need* to drug test (as opposed to having a Drug-Free Workplace Policy in place without testing)?
- Does the Employer *want* to drug test?
- What are the pros and cons of drug testing for the Employer?
- **Is drug testing a good fit for the Employer's operations and culture?**

Possible Policies and Policy Considerations - Drug Testing Policy

A Drug Testing Policy may address the following elements:

- Policy Statement
- Scope of Policy
- Prohibited Conduct
- Types of Drug Testing - Pre-employment testing; random testing; reasonable suspicion testing; post-accident testing; return-to-duty and follow-up testing
- Substances Tested (Is marijuana included?)
- Employee Assistance
- Disciplinary Action
- Confidentiality
- Employee Notification

Possible Policies and Policy Considerations - Drug Testing Policy

A Drug Testing Policy may also address the following elements:

- Drug Testing Procedures
 - Notification and Consent
 - Collection Process
 - Types of Samples
 - Laboratory Testing
 - Medical Review Officer (MRO)
 - Notification of Results
 - Confidentiality
 - Consequences of a Positive Test

Possible Policies and Policy Considerations - Drug Testing Policy

A helpful resource for consideration is the DHHS/SAMHSA Model Plan for a Comprehensive Drug-Free Workplace Program (Second Edition) - <https://www.samhsa.gov/substance-use/drug-free-workplace/about/background#model-plan>

Possible Policies and Policy Considerations - ADA Reasonable Accommodations Policy

Employers should comply with the Americans with Disabilities Act (“ADA”) in addressing an Employee’s cannabis use. Generally, an Employer who is subject to the ADA has an existing Reasonable Accommodations Policy which addresses:

- **The Employer’s commitment to ADA compliance**
- The availability of reasonable accommodations to help Employees perform the essential functions of their jobs
- **Employees’ ability to request reasonable accommodations for disabilities**
- How Employees may request such reasonable accommodations and the follow up process

Possible Policies and Policy Considerations - ADA Reasonable Accommodations Policy

Some considerations for Employers in applying their ADA Reasonable Accommodations Policy:

- **Is Employee disabled under the ADA, and does Employee's disability relate to Employee's cannabis use?**
- **The nature of Employee's cannabis use** - is it recreational; is it medically necessary; is it illegal in the State?
- Is Employee seeking to go into rehabilitation or get treatment to end cannabis use?
- **Is Employee seeking an accommodation related to Employee's medical cannabis use? Is Employee's requested accommodation reasonable under the circumstances, or does it pose an undue burden for Employer?**
- **Is Employee's use of cannabis causing a direct threat of harm to Employee or others in the workplace?**

Possible Policies and Policy Considerations - Leave Policies

Possible Policies and Policy Considerations - Leave Policies

Leave Policies may come into play, depending on the circumstances:

- Family and Medical Leave Act (FMLA) Leave
- ADA Leave
- Medical Leave
- Personal Leave
- Leave under specific State laws

Possible Policies and Policy Considerations - Disciplinary Policies

What are the Employer's goals?

- Is a zero-tolerance policy effective or a good fit?
- Is progressive discipline an option?
- **Does the Employer have the flexibility to address the Employee's behavior without terminating the Employee?**

Possible Policies and Policy Considerations - Interplay with Contractual Obligations

Does the Employer have contractual obligations to consider in addressing cannabis in the workplace?

- Federal and/or State contracts
- Subcontractor contracts
- **CBA's**
- Private employment contracts

Some helpful resources (along with resources from other ECHO sessions in this series):

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<https://www.samhsa.gov/substance-use/drug-free-workplace/employer-resources#laws>; <https://www.samhsa.gov/substance-use/drug-free-workplace/employer-resources/toolkit/develop-policy>

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Considerations for Multi-State or Global Employers

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Questions?



Thank You