

Marijuana: Employer Responsibility, Employee Rights: Medical and Legal Issues

The social and legal environment is changing with regard to marijuana use, acceptability, and medical practice. Therefore, it is important to identify what the employer responsibilities and employee rights are.

The interface of personal choice, legal code, and workplace policy can become more clearly defined by specific policy statements and accurate definition of job description behaviors.

Medical use of marijuana and legal possession give rise to the importance for company policies to be clear when addressing workplace safety, drug free policy, testing practice, and medical accommodation decisions.

EMPLOYER RESPONSIBILITIES

- Defining employee performance requirements, providing resources needed to produce a product, and then producing the product
- Employee assignment and establishing the worksite procedure, including accommodations for medical treatments and conditions
- Maintaining workplace safety and providing employee benefits
- Evaluating effectiveness and efficiency of employee job performance, including documentation of medical limits

EMPLOYEE RIGHTS

- Offer skills and experience (resume) in exchange for specific return of income and benefit
- A work site that is safe, secure, and accommodating to specific needs related to the ability to perform the job
- Protection and accommodation for identified medical conditions

MARIJUANA USE BY EMPLOYEES

When it comes to employees using marijuana, **job performance and safety** are the only two issues of concern to the employer and the employee. Social use, medical



from your Affiliated Employee Assistance Program (EAP)

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prescription, and political debate, while valid, do not fall under workplace concern.

Job performance behaviors are impacted by marijuana use:

1. The employer who has clear policy statements, behavior defined job descriptions, and consistent job performance assessment will have no problem keeping the focus on job performance.
2. The employee who uses marijuana socially or medically can have job performance assessments that indicate a need for improvement, require performance goals, increased safety issues, and possible discipline.

Workplace Safety and Public Safety are impacted by use of marijuana:

1. The employer is required by legal statute and government regulation to provide a safe work space and, in specific instances, to protect the public. Specific policy statements outline the process for testing the employee, as well as the process for job performance assessment.
2. The employee may be subject to state and/or federal monitoring of chemical use and, therefore, has a choice to make. Employees may choose to use marijuana for social or medical reasons, however they should be aware of the potential risks that using substances poses to employment.

MANAGEMENT GOALS FOR CHEMICAL FREE WORKPLACE

- **Focus** on job performance behaviors and workplace/public safety
- **Clearly define** policy statements and decisions regarding rule violation, suspension, assessment, and return to work practices
- **Provide policy statements** and employee handbooks to all employees
- **Train supervisors** to enable/promote effective random notification, reasonable suspicion documentation, accident response, and self-disclosure
- **Understand the testing process** requires protections of personal rights, employer responsibility, and confidentiality codes

A positive test result will initiate a process of suspension or termination from work, an assessment procedure, and specific conditions for returning to work. A chemical free workplace policy highlights job performance and safety as the core qualification for specific job performance behaviors.

Remember, chemical use is not a moral issue or a legal case when addressed in the workplace. It is a job performance action. It is a public safety event.



WORKPLACE CHEMICAL FREE RESOURCES

Workplace Drug Abuse
<http://drugabuse.com/library/workplace-drug-abuse/>

Brain & Nervous System
Slideshow: Medical Marijuana
<http://www.webmd.com/brain/ss/slideshow-medical-marijuana>

Revised July 2015
What is medical marijuana?
National Institute on Drug Abuse
<https://www.drugabuse.gov/publications/drugfacts/marijuana-medicine>

Everything You Need to Know About Recreational Marijuana in Maine
update 1/31/17 Marijuana.com
pro Marijuana web page with all the justification for any form of marijuana use updates daily.
<http://www.marijuana.com/blog/news/2017/01/everything-you-need-to-know-about-recreational-marijuana-in-maine/>
<http://www.marijuana.com/strains/>

Maine: Frequently Asked Questions in the Workplace
<http://www.maine.gov/dhhs/samhs/osa/prevention/workplace/faq.htm>

Report on Substance Abuse, Marijuana, Medical Marijuana, and the Maine Employer Substance Abuse Testing Law (26 MRSA Subchapter 3-A)
Maine Department of Labor, Bureau of Labor Standards
<http://www.procon.org/sourcefiles/main-department-of-labor-gov-ref-2016.pdf>

Evaluation of Drug Testing in the Workplace: Study of the Construction Industry - See more at: [http://ascelibrary.org/doi/abs/10.1061/\(ASCE\)0733-9364\(2001\)127:6\(438\)#sthash.HHTpHVLA.dpuf](http://ascelibrary.org/doi/abs/10.1061/(ASCE)0733-9364(2001)127:6(438)#sthash.HHTpHVLA.dpuf)

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