MEDICAL MARIJUANA IN THE WORKPLACE

Understanding and complying with the Arkansas Medical Marijuana Amendment

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Arkansas Medical Marijuana Amendment

INTRODUCTION

WHO CAN OBTAIN MEDICAL MARIJUANA?

HOW MUCH?

HOW?

FOR WHICH MEDICAL CONDITIONS?
Marijuana Laws in the U.S.
Applicability

**Applicability**
- Cardholders
  - Qualifying Patient
  - Designated Caregiver
  - Cultivation Facility Agent
  - Dispensary Agent
- Out-of-state visitor with a medical cannabis card issued in their state of residence for a qualified medical condition in Arkansas

**Quantity Allowed**
- 2.5 oz. of usable marijuana every 14 days

**How Dispensed**
- Licensed dispensaries
  - 32 dispensaries in the state
  - Only 4 dispensaries in each of the 8 geographic zones designated by Medical Marijuana
Dispensary Zones

Arkansas Medical Marijuana Dispensary Zones

Zone 1
Zone 2
Zone 3
Zone 4
Zone 5
Zone 6
Zone 7
Zone 8
Registry ID Card

How to Obtain a Registry ID Card

- Registry Identification Card issued by the Arkansas Department of Health
- **Written Certification**: document signed by a physician stating the following:
  - (1) in his/her professional opinion,
  - (2) after reviewing the patient’s medical history and current medical condition in the course of a physician-patient relationship, the patient has a qualifying medical condition.
- Several bills passed this legislative session clarify that a written certification is **not** a **prescription** or a **medical record**.
Qualifying Medical Conditions

12 enumerated conditions:
- Alzheimer’s, Amyotrophic Lateral Sclerosis (ALS), Arthritis, Cancer, Crohn’s Disease, Fibromyalgia, Glaucoma, Hepatitis C, HIV/AIDS, Post Traumatic Stress, Tourette’s Syndrome, Ulcerative Colitis

And a chronic or debilitating disease that produces the following:
- Wasting Syndrome or cachexia, peripheral neuropathy, severe nausea, seizures, or severe and persistent muscle spasms; or
- Intractable pain (defined as pain that has not responded to ordinary treatments for more than 6 months).

Any other medical condition or its treatment as approved by the Arkansas Dep’t of Health (ADH).
- The Amendment requires the ADH to create rules outlining how new medical conditions may be added to the list of qualifying conditions.
Medical Marijuana in the Workplace

Colorado User Statistics as of August, 2016:

- 63.8% male; 36.2% female
  - Average patient is 42-43 years old
  - Most common conditions being treated are severe pain and muscle spasms
The State of Medical Marijuana in Arkansas

- In February 2018, the Medical Marijuana Commission approved of 5 marijuana cultivation facilities.
  - In March 2018, an Arkansas judge temporarily blocked the state from awarding the cultivation licenses due to complaints about the state’s process for reviewing applications for cultivation licenses. That case was dismissed in June.
- There are 4,410 registered cardholders, i.e., patients and caregivers.
  - The state is expected to issue registry cards about one (1) month before marijuana is expected to be available legally.
- No dispensary licenses have been approved yet.
  - Marijuana is not currently available legally.
National Trends in Workplace Drug Testing

According to the Quest Diagnostics Drug Testing Index published in May 2017:

2016 Testing Data Shows Highest Workforce Drug Positivity in 12 Years, Driven by Illicit Drugs

Urine Drug Tests:

- 20% increase in positivity in the combined U.S. workforce from 2010-2016

Highest annual positivity rate since 2004


Oral Fluid Drug Tests:

- 56.7% increase in positivity in the general U.S. workforce from 2013-2016

Hair Drug Tests:

- 41.9% increase in positivity in the general U.S. workforce from 2013-2016
Positive marijuana drug test results also increased among all three testing specimens (oral fluid, hair and urine). In Colorado and Washington (the first states to legalize recreational marijuana), positive marijuana test results increased 11% and 9% respectively, while the overall nationwide marijuana positivity rate increased 4%.

This increase in positive illicit drug test results occurred among both the general U.S. workforce and in safety-sensitive positions, such as pilots and truck drivers, for whom routine drug testing is mandatory under federal regulations.

Post-accident testing shows that positive marijuana results are about 50% higher than found in random testing and about 40% higher than in pre-employment testing.
Arkansas Medical Marijuana Amendment

EMPLOYMENT PROVISIONS

CONFLICT WITH FEDERAL LAW

PROBLEMS WITH DRUG TESTING
Employment Protections

- Prohibits employment discrimination
  - “An **employer shall not discriminate** against an individual in hiring, termination, or any term or condition of employment, or otherwise penalize an individual, based upon the individual’s past or present status as a Qualifying Patient or Designated Caregiver.”

Photo credit: http://businesswest.com/blog/employers-struggle-with-fine-print-of-medical-marijuana-law/
Scope

- Employees cannot use marijuana at work or come to work “under the influence.”
- Employees cannot possess, smoke, or otherwise use marijuana in the following locations:
  - School bus
  - Grounds of a daycare center, preschool, primary or secondary school, college, or university
  - Drug or alcohol treatment facility
  - Community or recreation center
  - Correctional facility
  - Any form of public transportation
  - Public place
- An individual or establishment in lawful possession of property is not required to “allow a guest, client or customer, or other visitor to use marijuana on or in that property.”
Isn’t marijuana illegal under federal law?

- Yes! Under the federal Controlled Substance Act (CSA), marijuana is still classified as a Schedule I Drug.
- However, the Department of Justice has allowed states to legalize marijuana for medicinal and recreational purposes.
- The DOJ has listed eight priorities for enforcing violations of the Controlled Substances Act, none of which include prosecuting users of marijuana for medicinal and recreation use.
DOJ’s Position

**DOJ**: As long as state enforcement methods are “sufficiently robust” to protect against these harms, legalization will not be challenged.
DOJ’s 2018 Position

**DOJ: NEVER MIND!**
“Zero Tolerance” Policies – Federal

- **Federal Drug Free Workplace Act**
  - Federal grant recipients and contractors must adopt a zero tolerance policy for drug use and certify that the workplace is drug free.
    - Publish a written policy and require employee consent;
    - Initiate awareness programs about dangers of drug abuse and available counseling/rehabilitation;
    - Requires employees to notify employers of any drug-related conviction; and
    - Make an ongoing good faith effort to maintain a drug-free workplace.
    - *The Act does not require (or prohibit) drug testing.*

- **Department of Transportation**
  - Federal law requires DOT Agencies to implement drug testing of safety-sensitive transportation employees in the aviation, trucking (including school bus drivers, and certain limousine and van drivers), railroads, mass transit, and pipelines industries.
  - Arkansas law does not trump federal statutes.
  - DOT’s Drug Alcohol Testing Regulation – 49 CFR Part 40 – “does not authorize 'medical marijuana’ under a state law to be a valid medical explanation for a transportation employee’s positive drug test result.”
Federal Agencies – Safety Sensitive Positions

- Certain federal agencies require drug testing for safety sensitive positions
  - E.g., The U.S. Dep’t of Transportation (DOT) requires employers to implement drug testing of safety-sensitive transportation employees in the aviation, trucking (including school bus drivers, and certain limousine and van drivers), railroads, mass transit, and pipelines industries.
  - DOT’s testing requirements preempt state law, including marijuana legalization laws.
  - DOT’s Drug Alcohol Testing Regulation – 49 CFR Part 40 – “does not authorize 'medical marijuana' under a state law to be a valid medical explanation for a transportation employee’s positive drug test result.”
“Zero Tolerance” Policies - Arkansas

• Arkansas’s Voluntary Program for Drug-Free Workplaces
  o Allows employers to implement a drug-free workplace program, qualifying them for workers’ comp premium credit (5%).
  o Employers may implement certain types of drug testing.
    ▶ **Pre-Employment**: After making a conditional offer of employment to a job applicant after providing notice of the testing requirements
    ▶ **Post-Accident**: After an accident resulting in physical injury
    ▶ **Follow-Up**: Follow-up drug testing after entering rehab program
    ▶ **Routine**: At routine times according to written policy
    ▶ **Reasonable Suspicion**: When employer has reasonable suspicion of drug use
      ▶ Any other lawful reason, e.g., random, possession
  o Consequences of failing a drug test
    ▶ An employee who fails or refuses to take the test may be terminated and precluded from receiving workers’ compensation medical and indemnity benefits.
    ▶ If an applicant fails or refuses to take the test, employer may refuse to hire an applicant who fails/refuses to take the test.
  o Employers must provide notice of mandatory drug testing, as well as the consequences.
  o Employers must provide substance abuse education.
  o Employers must comply with procedural requirements for drug and alcohol testing.
“No problem! I’ll just weed out users with my current drug testing policy.”

Not so fast! There are major problems with current marijuana testing methods.

- A positive urine test can detect use from 1-100 days.
  - Courts are not convinced urinalysis proves “under the influence.”
- Blood testing has shorter detection time but is invasive and implicates privacy concerns.
- Oral testing has a shorter detection time but is not validated.
Pro-Employer Cases

- Until recently, most courts ruled in favor of a private employer’s right to terminate an employee who was enrolled in his/her state’s medical marijuana program when he/she tested positive for marijuana.
Problems with Drug Testing

- **Urinalysis does not accurately detect when someone is “under the influence.”**
  - Urinalysis detects THC metabolites; it does not detect impairment.
    - Testing positive for marijuana may not necessarily mean that the person was “under the influence” at the time.
    - For a first-time user, urinalysis has a detection time of 1-7 days.
    - For a regular user, this detection time is 7-100 days.
- **Blood and saliva tests provide shorter detection times.**
  - For a first-time user, blood testing has a detection time of 12-24 hours. For a regular user, blood testing has a detection time of 2-7 days.
    - However, blood testing is invasive and may implicate privacy violations for public employees, who must ensure compliance with the 4th Amendment requirement for unreasonable searches.
  - Oral testing has a detection time of 0-24 hours, but is not validated.
    - Oral fluid testing can detect the metabolite as well as the parent drug THC (while the drug is in the mouth or upper respiratory tract), and cannot be adulterated or substituted as easily as urinalysis (saliva testing is a directly observed collection).
- **However, employers must still use urinalysis for safety-sensitive positions to comply with federal rules and regulations.**
In May, 2017, a Rhode Island trial court found in favor of an applicant who was rejected by a private employer after she disclosed that she was currently using marijuana and would test positive. **Callaghan v. Darlington Fabrics Corp., No. PC-2014-5680.**

- “No school, employer, or landlord may refuse to enroll, employ, or lease to, or otherwise penalize, a person solely for his or her status as a cardholder.”
- Employer argued that it refused to hire Plaintiff not because of her status as a cardholder, but because of her inability to “pass a mandatory pre-employment drug test.”
  - The court rejected the employer’s distinction between cardholders and users of medical marijuana.
The court granted summary judgment to Plaintiff for violations of Rhode Island’s medical marijuana law due to employment discrimination.

- The law does not permit “[a]ny person to undertake any task under the influence of marijuana, when doing so would constitute negligence or professional malpractice.”
- The court note that if an employee came to work under the influence, and unable to perform his or her duties in a competent manner, the employer would not have to tolerate this behavior.

The court denied summary judgment to Defendant on the issue of violations of Rhode Island’s disability discrimination law.

- The court noted that changing the employer’s unwritten practice not to automatically disqualify a cardholder who tests positive for marijuana would be a reasonable accommodation.
In July, 2017, the Massachusetts high court ruled that an employee with a medical marijuana card could bring a state disability discrimination lawsuit against her employer for firing her for failing a mandatory drug test. **Barbuto v. Advantage Sales & Mktg., LLC, 477 Mass. 456, 78 N.E.3d 37 (2017).**

- If an employer has a policy against the use of medical marijuana, the employer must engage in an interactive process to determine whether there are medical alternatives that would not violate the policy.
- If there is no equally effective alternative, the employer must prove that the employee’s use of medical marijuana would cause an undue hardship to the employer’s business. If there is no undue hardship, an exception to the employer’s drug policy would be a reasonable accommodation.

- The Arkansas Civil Rights Act prohibits employment discrimination against persons with “any sensory, mental or physical disability.”
Pro-Employee Case

- Courts are concerned about the relationship between testing positive for marijuana and being impaired or under the influence.

  - A North Carolina Workers’ Comp Board found that an employee who was injured at work and later tested positive was entitled to workers’ comp benefits. *Moore v. Sullbark Builders, Inc.*, 680 S.E.2d 732 (N.C. Ct. App. 2009).

  - Reasoning: The toxicology test did not indicate the levels of concentration of the drugs, and the employer failed to produce any other “credible evidence” to show impairment. Thus, the employer failed to demonstrate that the employee was impaired at the time of the injury.
Questions

- How will Arkansas courts rule on this and similar issues? We will have to wait and see.

- What is “credible evidence” of impairment?

- What actions may an employer take based on a positive drug test for marijuana if the applicant or employer is a registered cardholder?

- Don’t be a test case!
Easy Questions

Do I have to tolerate the use of marijuana in the workplace?

- By employees?
  - No. An employer is not required to “accommodate the ingestion of marijuana in a workplace.”
  - Also, off-duty consumption of marijuana, without a registration card lawfully issued by the Department of Health, is still illegal.

- By customers or other members of the public?
  - No person is permitted to “possess, smoke, or otherwise engage in the use of marijuana” on any form of public transportation or in any public place.
  - An individual or establishment in lawful possession of property is not required to “allow a guest, client or customer, or other visitor to use marijuana on or in that property.”
Harder Questions

- Do employers have to provide Registered Cardholders with reasonable accommodations under the ADA?
  - Unless the state marijuana statute explicitly requires accommodations, most state and federal courts hold that employers are not required to provide reasonable accommodations.
  - The Arkansas Amendment provides that employers are not required to accommodate the ingestion of marijuana in a workplace or employees working under the influence of marijuana.
  - However, employers may be required to accommodate the employee’s underlying medical condition.

- Can employers take adverse action based solely on positive drug results?
  - If they do, can employees bring wrongful termination claims?
    - Employees will likely have a wrongful termination claim under the non-discrimination provision of the Arkansas Medical Marijuana Amendment.
Harder Questions

**How does an employer test for and document that an employee came to work or performed a task “under the influence” of marijuana?**

- We do not advise employers to take adverse action based solely on positive drug results unless the employee is in a “safety sensitive position.”
- Employers should carefully review the Amendment’s employment provisions.
- Employers should engage in a **fact-specific inquiry:**
  1. Whether the applicant or employee is a qualifying patient lawfully enrolled in the State’s medical marijuana program,
  2. Whether there is a job-related reason that a medical marijuana user could not be hired or remain in the position in question, and
  3. Whether the employee is demonstrating signs and symptoms of being under the influence, which should be documented and witnesses.
- Employers should consult legal counsel in each situation.
- For employees in “safety sensitive positions,” there is likely a legitimate basis for taking an adverse action if there is a positive test result, regardless of the Amendment.
Harder Questions

- **What constitutes “misconduct” under the Unemployment Insurance code provisions?**
  - Courts in states with medical marijuana have gone both ways.
  - Arkansas courts will likely consider the AMMA’s rebuttable presumption of lawful activity and whether failing a drug test constitutes “misconduct in connection with the work.”

- **Does the illegal drug exclusion to the workers compensation statute still apply in an accident involving a Registered Cardholder?**
  - Courts have dinged an employer who relied solely on drug tests to deny workers’ comp benefit. The employer failed to produce any other “credible evidence” to show impairment, and thus failed to demonstrate that the employee was impaired at the time of the injury.
  - At this time, medical review officers are hesitant to testify on the basis of a positive marijuana drug test that an individual was impaired at the time of the injury for the purposes of workers’ compensation because of the problems with drug testing.
Are employers required to pay for medical marijuana treatments to treat an employee’s injury as part of workers’ compensation?

- Courts in states with medical marijuana have gone both ways.
- The Arkansas Amendment provides that it does not require a government medical assistance program or private health insurer to reimburse for costs associated with medical marijuana unless federal law so requires it to be done.
Act 593 of 2017

State Chamber of Commerce and local law firms (including CGWG) drafted a bill to clarify the employment provisions. The bill was enacted as Act 593 of 2017.

Act 593 creates key definitions:
- Employer
- Employee
- Under the influence
- Safety sensitive position
Act 593: Definitions

- **Employers** are the same as those subject to the Arkansas Civil Rights Act.
  - An entity must employ 9 or more employees in the State of Arkansas for 20 or more calendar weeks in the current or preceding calendar year

- **Employees** do not include the following:
  - Independent contractors
  - Employees who work for their immediate family
  - Individuals participating in a specialized employment training program conducted by a nonprofit sheltered workshop or rehabilitation facility
  - Individuals employed outside of Arkansas

- A **written certification** from a physician is not a medical prescription.
• **Under the influence** means symptoms of current use of marijuana that may negatively impact the performance of the job duties or constitute a threat to health or safety. It includes without limitation:
  o Symptoms of the applicant’s or employee’s speech, walking, standing, physical dexterity, agility, coordination, action, movement, demeanor, appearance, clothing, odor, or other irrational or unusual behavior that are inconsistent with the usual conduct of the applicant or employee;
  o Negligence or carelessness in operating equipment, machinery, or production or manufacturing processes;
  o Disregard for safety;
  o Involvement in an accident that results in property damages, disruption to a production or manufacturing process, or an injury; or
  o Other symptoms causing a reasonable suspicion that the individual may be under the influence of marijuana.
Act 593: Drug Testing Policies

- Employers may still have substance abuse policies with drug testing programs.
- BUT to take adverse action against a qualifying patient, an employer must have a **good faith belief** that the employee was under the influence of marijuana at work, not just a positive drug test.
- A **positive drug test result for marijuana** means a result that comports with federal DOT standards or Arkansas DUI/DWI laws, whichever is lower.
An employer’s **good faith belief** may be based on the following:

- Observed conduct, behavior, or appearance;
- Information reported by a person believed to be reliable;
- Written, electronic, or verbal statements;
- Lawful video surveillance;
- Records of government agencies, law enforcement agencies, or courts;
- A warning label, usage standard, or other printed material that accompany instructions for usable marijuana;
- Positive drug test result;
  - But a positive drug test alone is not enough to take action against a qualifying patient in a non-safety sensitive position.
- Information from a physician, medical review officer, or a dispensary;
- Information from reputable reference sources in print or on the internet;
- Other information reasonably believed to be reliable or accurate;
- Or any combination of the items listed above.
Act 593: Safety Sensitive Positions

- Special rule for safety sensitive positions
  - Employers may exclude a qualifying patient from performing a safety-sensitive position if s/he tests positive for marijuana.

- What is a safety sensitive position?
  - A position may be designated as safety sensitive in two ways: (A) by state or federal law or (B) by the employer if the position meets the definition in Act 593.
(A) A safety sensitive position is any position involving a safety sensitive function pursuant to federal regulations adopted by the United States Department of Transportation or any other federal or state agency’s rules, guidelines, or regulations.

- Zero tolerance policies for certain federal contractors.
(B) A safety sensitive position is any position designated in writing by an employer as a safety sensitive position, in which a person performing the position while under the influence of marijuana may constitute a threat to health or safety, including without limitation a position:

- That requires any of the following activities:
  - Carrying a firearm;
  - Performing life-threatening procedures;
  - Working with confidential information or documents pertaining to criminal investigations; or
  - Working with hazardous or flammable materials, controlled substances, foods, or medicine; or

- In which a lapse of attention could result in injury, illness, or death, including without limitation a position that includes the operating, repairing, maintaining, or monitoring of heavy equipment, machinery, aircraft, motorized watercraft, or motor vehicles as part of the job.
Act 593: Damages

- The statute of limitations for a cause of action is 1 year from the occurrence of the alleged violation.

- The remedies for such an action are limited to those allowed for an employment discrimination claim under the Arkansas Civil Rights Act.
  - Order prohibiting the discriminatory practices and providing affirmative relief from the effects of the practices
  - Back pay and interest (but back pay is limited to two years prior to the filing date)
  - Attorney’s fees and cost of litigation

- The Arkansas Civil Rights Act contains caps on the total compensatory and punitive damages that an employer may be liable for.
  - Employer with fewer than 15 employees - $15,000
  - Employer with 15-100 employees - $50,000
  - Employers with 101-200 employees - $100,000
  - Employers with 201-500 employees - $200,000
  - Employer with 501+ employees - $300,000
Recommendations

REVIEW SUBSTANCE ABUSE POLICIES AND FORMS

REASONABLE SUSPICION TRAINING FOR SUPERVISORS

UPDATE JOB DESCRIPTIONS

ADOPT A PRE-DUTY DISCLOSURE POLICY

USE A MEDICAL REVIEW OFFICER
Substance Abuse Policy and Forms

- Review your current substance abuse policy and forms to ensure that they cover medical marijuana and comply with the new Amendment.


Substance Abuse Policy and Forms

- Drug & Alcohol testing policies should be in writing and signed by employees.
  - Set forth conditions for testing and impact of positive results.

- Condition of employment that Employees do not work or report to work under the influence of drugs and/or alcohol.
  - Off-duty use of illegal drugs may be prohibited.
  - Address the use of legal drugs at work.

- Policies should state the action to be taken against an employee refusing to participate in required testing.
Substance Abuse Policy and Forms

- An Employer may implement their own Drug & Alcohol Policies.

- **Recommended provisions:**
  - Pre-employment testing (post-offer)
  - Reasonable suspicion testing
  - Post-accident testing
  - Consequences of refusing to be tested or failing a test
  - Identification of drugs for which tests will be administered (5-panel, 10-panel, others)
  - Advisement of the failure levels (and exceptions), e.g., BAC, over-the-counter and prescription medication for which an employee has a valid medical reason to be using

- **Who to test?**
Testing for Marijuana

- Employers should take precautions when using a positive marijuana test to take adverse employment action against a qualifying patient, i.e., individuals who are allowed to ingest marijuana for medical purposes.
  - Employers may take adverse employment against on the sole basis of a positive test against a qualifying patient in a safety sensitive position, as defined by state or federal law or as designated in writing by the employer pursuant to Act 593.
  - Otherwise, employers need a good faith belief that the applicant or employee was under the influence, possessed, smoked, ingested, or otherwise engaged in the use of marijuana in the workplace.
Reasonable Suspicion Signs and Symptoms

- Train managers and supervisors to identify the workplace related impairing effects of marijuana:
  - Inability to accurately gauge lengths of time and distance
  - Hearing and vision impairment, visual and/or auditory hallucinations
  - Inability to cope with sudden changes and/or emergencies
  - Loss of balance
  - Short-term memory loss
  - Non-caring, uncommited, unconcerned attitude
  - Decreased cognitive reasoning and motor coordination
  - Inability to concentrate
  - Increased drowsiness, fatigue, and lethargy

- Document signs and symptoms; have another manager witness and sign; keep in thee employee’s records
Update Job Descriptions

- Designate job positions as “safety sensitive” under Act 593 if they meet the definition.
  - Know which positions are classified as such in advance of testing.
Update Job Descriptions

- Every job description should list “Essential Job Functions.”
  - E.g., operates heavy machinery or equipment
  - E.g., responsible for maintaining inventory of medication
- Add this language to the essential functions: “the **ability to work in a constant state of alertness and in a safe manner.**”
  - This language makes alertness “job related” under the ADA and OSHA.
  - For an employee in a safety-sensitive position, this makes alertness a “business necessity.”
- Add the specific **physical and mental competencies** required for the position.
  - E.g., lift 50 lb.
  - E.g., concentrate for long periods of time
Adopt a Pre-Duty Drug Safety Policy (if appropriate)

- This policy requires employees in safety-sensitive positions to pre-duty disclose that they have taken an impairing drug, whether legal, illegal, over-the-counter, or prescription.
  - Define “safety sensitive” and list the job classifications that qualify.
  - Make this part of the substance abuse policy.
  - The employee does not have to disclose the drug or the medical condition to comply.

- Once disclosed, the employer reserves the right to send the employee to a fitness-for-duty evaluation.
  - The employer should encourage employees to give the examining physician a copy of the employee’s job description so the physician can make a fitness-for-duty determination, i.e., whether or not the employee may safely perform the essential functions of his/her job while using the medication.

- The employer should reserve the right to make the final determination as to employment consequences, e.g., suspension, termination, light duty, etc.
Use a Medical Review Officer to Conduct Drug Testing

- A Medical Review Officer (MRO) is a licensed physician who is employed by a third-party drug testing laboratory.
  - The MRO acts as a gatekeeper of drug test results between the testing lab and the employer, insulating the employer from knowledge of the specific drug and medical condition associated with the employee.
  - The MRO is trained to conduct drug tests in compliance with state and federal law.
- The MRO determines whether an employee who tests positive for a legal drug has a legitimate reason for using the drug, such as a current prescription from a licensed physician.
- The MRO can provide recommendations to the employer, such as conducting fitness-for-duty testing, providing safety concern notices, and follow-up monitoring.
- Currently, MROs are reporting positive results for positive marijuana tests, regardless of a state issued license.
Make Your Position on Marijuana Clear

- Include clear information on marijuana use in a substance abuse policy.
- Have employee awareness meetings to discuss the impairing effects of marijuana.
- Emphasize the importance of safety in the workplace and in public areas.
- Monitor Arkansas law carefully for updates.
- Do not take disciplinary action against an employee for medical marijuana without consulting competent legal counsel.
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